

Nos. 22-55988, 22-56036

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

---

AL OTRO LADO, INC., *et al.*,

*Pls.-Appellees/Cross-Appellants,*

v.

ALEJANDRO MAYORKAS, Secretary of Homeland Security, *et al.*,

*Defendants-Appellants/Cross-Appellees,*

and

The EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

*Appellant/Cross-Appellee.*

---

APPEAL FROM FINAL JUDGMENT OF THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
No. 17-cv-02366-BAS-KSC

---

**APPELLEES/CROSS-APPELLANTS' SUPPLEMENTAL EXCERPTS OF  
RECORD – VOLUME 2**

---

Stephen M. Medlock  
Evan Miller  
Rami Abdallah E. Rashmawi  
VINSON & ELKINS LLP  
2200 Pennsylvania Ave., N.W., Ste. 500 W.  
Washington, DC 20036  
(202) 639-6500

Baher Azmy  
Angelo Guisado  
CENTER FOR CONSTITUTIONAL RIGHTS  
666 Broadway, 7th Floor  
New York, NY 10012  
(212) 614-6464

Ori Lev  
MAYER BROWN LLP  
1999 K Street, N.W.  
Washington, DC 20006  
(202) 263-3270

Matthew H. Marmolejo  
MAYER BROWN LLP  
333 S. Grand Ave., 47th Floor  
Los Angeles, CA 90071  
(213) 229-9500

*Additional Counsel listed inside cover*

Melissa Crow  
CENTER FOR GENDER & REFUGEE STUDIES  
1121 14th Street, N.W., Suite 200  
Washington, DC 20005  
(202) 355-4471

Neela Chakravartula  
Anne Dutton  
CENTER FOR GENDER & REFUGEE STUDIES  
200 McAllister Street  
San Francisco, CA 94102  
(415) 565-4877

Katherine Melloy Goettel  
Gianna Borroto  
Suchita Mathur  
AMERICAN IMMIGRATION COUNCIL  
1331 G St NW, Suite 200  
Washington, DC 20005  
(202) 507-7552

Sarah Rich  
SOUTHERN POVERTY LAW CENTER  
150 E. Ponce de Leon Ave., Suite 340  
Decatur, GA 30030  
(404) 521-6700

Rebecca Cassler  
SOUTHERN POVERTY LAW CENTER  
201 Saint Charles Avenue, Suite 2000  
New Orleans, LA 70170  
(504) 486-8982

*Counsel for Appellees/Cross Appellants*

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 42 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619




Case 3:17-cv-02366-BAS-KSC Document 767-19 Filed 09/30/21 PageID.67121 Page 3 of 3

**From:** CASTILLO, MOISES  
**Sent:** Saturday, May 28, 2016 1:37 AM  
**To:** HOOD, ROBERT W; AKI, SIDNEY K; MARIN, MARIZA  
**Subject:** RE: Update

10 / 4

"Vires et Honor"

Moises Castillo  
Watch Commander  
San Ysidro Port of Entry  
Special Response Team  


---

**From:** HOOD, ROBERT W  
**Sent:** Friday, May 27, 2016 10:33:41 PM  
**To:** CASTILLO, MOISES; AKI, SIDNEY K; MARIN, MARIZA  
**Subject:** RE: Update


We should hold them at the turnstile and not allow them to come into the line. We have no space and it is ugly.

---

**From:** CASTILLO, MOISES  
**Sent:** Friday, May 27, 2016 10:07:07 PM  
**To:** HOOD, ROBERT W; AKI, SIDNEY K; MARIN, MARIZA  
**Subject:** RE: Update

I got a call from Chavoya. One of the shelters had issues receiving the people they took. They are returning a van full of asylees back to the limit line. They didn't give me an exact number, but they are all males.

"Vires et Honor"

Moises Castillo  
Watch Commander  
San Ysidro Port of Entry  
Special Response Team  


---

**From:** HOOD, ROBERT W  
**Sent:** Friday, May 27, 2016 9:58:46 PM  
**To:** AKI, SIDNEY K; CASTILLO, MOISES; MARIN, MARIZA  
**Subject:** RE: Update

We should have the 2200 end of shift report soon.

---

**From:** AKI, SIDNEY K  
**Sent:** Friday, May 27, 2016 9:57:31 PM  
**To:** HOOD, ROBERT W; CASTILLO, MOISES; MARIN, MARIZA  
**Subject:** Update

How are we doing? How many cases have we processed?

Confidential

AOL-DEF-00243127

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 43 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

**From:** CASTILLO, MOISES  
**Sent:** Saturday, May 28, 2016 2:13 PM  
**To:** AKI, SIDNEY K; HOOD, ROBERT W  
**CC:** MARIN, MARIZA  
**Subject:** RE: SYS AEU movement and pass down for 5/27/2016 1400-2200

[REDACTED]

Consulate employees are also making donations to the shelters that are housing the people that were moved yesterday.

[REDACTED]

---

**From:** AKI, SIDNEY K  
**Sent:** Friday, May 27, 2016 10:52 PM  
**To:** HOOD, ROBERT W <[REDACTED]>  
**Cc:** MARIN, MARIZA <[REDACTED]>; CASTILLO, MOISES <[REDACTED]>  
**Subject:** RE: SYS AEU movement and pass down for 5/27/2016 1400-2200

We are not prepared and we told BP that we were not going this weekend.

Please guide our team to process cases and only focus on processing case at this time. Let's hold the line the best we can. Please call and muster the supervisors and focus them on the task. Thx.

---

**From:** HOOD, ROBERT W  
**Sent:** Saturday, May 28, 2016 12:46:33 AM  
**To:** HOOD, ROBERT W; AKI, SIDNEY K  
**Cc:** MARIN, MARIZA; CASTILLO, MOISES  
**Subject:** RE: SYS AEU movement and pass down for 5/27/2016 1400-2200

Sir,

[REDACTED]

Respectfully,

---

**From:** HOOD, ROBERT W  
**Sent:** Friday, May 27, 2016 10:31:26 PM  
**To:** AKI, SIDNEY K  
**Cc:** MARIN, MARIZA; CASTILLO, MOISES  
**Subject:** FW: SYS AEU movement and pass down for 5/27/2016 1400-2200

Sir,

Below are the numbers. [REDACTED]

It looks like 28 Haitians were completed and 20 VP.

---

**From:** PORTOCARRERO, WILSON  
**Sent:** Friday, May 27, 2016 10:18:30 PM  
**To:** SYS AEU  
**Subject:** SYS AEU movement and pass down for 5/27/2016 1400-2200

**San Ysidro AEU Detainee Movement for May 27, 2016 (1400-2200)**

- (3) Detainees Transported to BK5
- (2) Detainees Paroled by CBP

- (7) Detainees Paroled by ICE-ERO

Total movement: (12) detainees moved

\*\*\*Other Movement\*\*\*

- (14) Detainees Transported to Imperial Beach BP Station
- (15) Detainees Transported to Brownfield BP Station

Total Movement: (29) Detainees Moved

\*\*\*Subjects brought into AEU from PAX and Asylum line (43)\*\*\*

START of Shift Numbers		END of Shift Numbers	
CASA	CEU/ICE	CASA	CEU/ICE
0	0	0	0
CAI	MEX CONSUL	CAI	MEX CONSUL
0	4	0	5
BK5	HOSPITAL	BK5	HOSPITAL
61	1	61	1
OLD PORT	CELL 4	OLD PORT	CELL 4
199	1	203	0
Brown Field	Imperial Bch	Brown Field	Imperial Bch
7	0	4	12
ON SITE	ASYLUM LINE	On Site	Asylum Line
636	0	716	15

SYS CASES PROCESSED	
ER/CF	0
NTA-R	28
CUBAN	0
NTA-D	5
UAC	2
ER	0
TGIS (NEG)	0
TTRT	7
TTRT Mismatch	7
WD	0
VWR	0
VEHICLE CASE	0
<b>TOTAL</b>	<b>49</b>

Virtual Processed Cases	
Murrieta	0
San Ysidro	0
El Centro BP	3
Winterhaven OFO	2
Long Beach	3
Tecate	3
San Diego Airport	0
Ft Lauderdale	4
MIAMI	5
<b>TOTAL</b>	<b>20</b>

Turnover Notes:

- You will start with 716 detainees on-site.
- Mexico is bringing 24 asylees from their facility to be processed at 1400 hrs. so you will have 24 to start your intaking at the beginning of your shift. **\*\*38 were actually brought into the Asylum line\*\***
- All of the detainees were taken into AEU.
- AEU brought 15 from Otay Mesa's asylum and were taken to SYS asylum line.
- Old Port has 203 detainees plus 245 old port warehouse.
- Deaf Detainee in custody was unable to establish communication on swings. We need to determine if she can sign, and proceed from there.

Case 3:17-cv-02366-BAS-KSC Document 767-20 Filed 09/30/21 PageID.67126 Page 5 of 5

- Fraud cases were brought from Otay Mesa and have been taken into SYS AEU.
- Pending Priority TARS will need to be ready for the PA in the morning.
- Detainees transported to IMB and Brownfield BP Stations.
- Mexico will be bringing 20 Haitians to our asylum lane.
- 1 vehicle cases pending.
- 0 CTR/TGIS pending.

**Previous Notes:**

- 1 Japanese VWPR meet and greet emailed and confirmed with SAN. Detainee will depart on May 28, 2016.
- 1 Haitian female infant ([REDACTED]) admitted to Radys Children's Hospital. Bullets sent. STILL AT HOSPITAL.
- 2 Daily Placement schedule were created one for AEU and one for Old Port.
- Haitian ([REDACTED]) POC will call with update on bus ticket, ticket was purchased for downtown SD, will call with new time for bus ticket from SYS bus station.
- Have old port monitor closely the detainees. Several complaints from job options for restrooms.

Wilson Portocarrero  
Supervisory Customs and Border Protection Officer  
SD National Frontline Recruiting Command  
Tactical Terrorism Response Team  
Admissibility Enforcement Unit  
San Ysidro Port of Entry  
[REDACTED]

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>1</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26  
27  
28

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 45 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).



1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



**From:** CASTILLO, MOISES [REDACTED]  
**Sent:** Sat May 28 2016 11:51:18 EDT  
**To:** HOOD, ROBERT W [REDACTED]; MARIN, MARIZA [REDACTED]  
**CC:**  
**Subject:** RE: Question  
**Attachments:**  
**Importance:** Normal  
**Priority:** Normal  
**Sensitivity:** None

10 / 4

Sir. Our supervisors just reassigned a supervisor that was assigned by pax Ops and he wasn't doing anything. Tovar spoke to me and Ops Chief switched him out with someone that can actually help. I will go in for a while and make sure officers are processing.

"Vires et Honor"

Moises Castillo  
Watch Commander  
San Ysidro Port of Entry  
Special Response Team  
[REDACTED]

---

**From:** HOOD, ROBERT W  
**Sent:** Saturday, May 28, 2016 8:11:16 AM  
**To:** CASTILLO, MOISES; MARIN, MARIZA  
**Subject:** RE: Question

Mo/Mariza,

I got a call late last night from Aki [REDACTED]

**DP**

**DP**

I have called the WCS and told them to not allow any asylees past the limit line at both SYS and OTM. They can line up in Mexico until we have room.

---

**From:** CASTILLO, MOISES  
**Sent:** Saturday, May 28, 2016 7:40:51 AM  
**To:** HOOD, ROBERT W  
**Subject:** Question

Sir,

I'm getting numbers from AEU of how many files we have ready that haven't been picked up and also how many detainees are ready to be moved and we still have in custody.

I'm going for a quick run and if you are ok with it I will be going into work?

"Vires et Honor"

Moises Castillo  
Watch Commander  
San Ysidro Port of Entry  
Special Response Team  
[REDACTED]



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 46 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 767-23 Filed 09/30/21 PageID.67138 Page 3 of 6

**From:** AKI, SIDNEY K  
**Sent:** Saturday, May 28, 2016 7:57 PM  
**To:** HOOD, ROBERT W; CASTILLO, MOISES; MARIN, MARIZA  
**Subject:** RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Agree. It would be a good symbol to the shelter/INMI to at least take a little at a time and meter it based on our capacity since they are helping us out. Let's work with Chavoya to bring a small group in per shift.

---

**From:** HOOD, ROBERT W  
**Sent:** Saturday, May 28, 2016 6:41:53 PM  
**To:** AKI, SIDNEY K; CASTILLO, MOISES; MARIN, MARIZA  
**Subject:** RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Ideally, that is what we should do. We need some breathing room.

---

**From:** AKI, SIDNEY K  
**Sent:** Saturday, May 28, 2016 4:39:37 PM  
**To:** HOOD, ROBERT W; CASTILLO, MOISES; MARIN, MARIZA  
**Subject:** RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

We should coordinate and bring small groups at a time and hold the line to prevent any from entering.

---

**From:** HOOD, ROBERT W  
**Sent:** Saturday, May 28, 2016 6:21:06 PM  
**To:** CASTILLO, MOISES; AKI, SIDNEY K; MARIN, MARIZA  
**Subject:** RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

This could go on for a while. When they bring the [REDACTED] from the shelter, the [REDACTED] saw this morning, plus whatever else is arriving, we will be overcrowded.

---

**From:** CASTILLO, MOISES  
**Sent:** Saturday, May 28, 2016 3:42:22 PM  
**To:** AKI, SIDNEY K; MARIN, MARIZA  
**Cc:** HOOD, ROBERT W  
**Subject:** RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

They are working on it as we speak. They are showering the detainees before moving them to Brown Field. Supervisors are waiting for BK5 to see how many they will take from us.

On a side note, ERO Supervisor was here picking up files and he was walked to the GSA warehouse. He has been instructed by his director to have a full staff the entire weekend. He just drafted his entire shift until they finish processing the detainees that were picked up.

They will show up tomorrow for another run and take everything we have ready. They will be doing the same on Monday.

It seems that their HQ sent word that they will support our movement of detainees and won't stop until this is resolved.

"Vires et Honor"

Moises Castillo  
Watch Commander  
San Ysidro Port of Entry  
Special Response Team  
[REDACTED]

---

**From:** AKI, SIDNEY K  
**Sent:** Saturday, May 28, 2016 3:06:07 PM  
**To:** MARIN, MARIZA  
**Cc:** CASTILLO, MOISES; HOOD, ROBERT W  
**Subject:** RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Can we move completed cases to IB, BF, and BK5 so as to make room for us?

**From:** MARIN, MARIZA  
**Sent:** Saturday, May 28, 2016 4:54:09 PM  
**To:** AKI, SIDNEY K  
**Cc:** CASTILLO, MOISES; HOOD, ROBERT W  
**Subject:** FW: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

Sir, FYSA

---

**From:** CRUZ, CHRISTOPHER C  
**Sent:** Saturday, May 28, 2016 2:51:40 PM  
**To:** SYS AEU  
**Subject:** RE: SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

\*\*\*AMMENDED MOVEMENT for 05/28/2016 0600-1400

-

**San Ysidro AEU Detainee Movement for May 28 2016 (0600-1400)**

- (11) Detainees transported to W-3
  - (6) Mexican minors repatriated to Mexico with Mexican consul
  - (1) detainee transported to SND airport for meet and greet
  - (44) Detainees TOT ICE/ERO
- Total movement: (62) detainees moved

**In addition to the above:**

- (7) Transported from Brownfield Border Patrol Station to ICE ERO
- (10) Transported from Imperial Beach Border Patrol Station to ICE ERO
- (22) Transported from Barracks 5 to ICE ERO

Additional movement: (39) detainees moved

**\*\*Total detainees moved: (101)**

**Christopher C. Cruz**  
US Customs & Border Protection Supervisor  
Admissibility Enforcement Unit  
DFO Recruiter  
Juvenile Outreach Team  
San Ysidro Port of Entry  
[REDACTED]

---

**From:** TOVAR, LORENZO G  
**Sent:** Saturday, May 28, 2016 2:13 PM  
**To:** SYS AEU [REDACTED]  
**Subject:** SYS AEU MOVEMENT AND PASS DOWN FOR 5/28/16 0600-1400

**San Ysidro AEU Detainee Movement for May 28 2016 (0600-1400)**

- (11) Detainees transported to W-3
  - (6) Mexican minors repatriated to Mexico with Mexican consul
  - (1) detainee transported to SND airport for meet and greet
  - (44) Detainees TOT ICE/ERO
- Total movement: (62) detainees moved

- (0) Detainees were intake from Asylum line during shift.

START of Shift Numbers		END of Shift Numbers	
CASA	CEU/ICE	CASA	CEU/ICE
0	0	0	0
CAI	MEX CONSUL	CAI	MEX CONSUL
0	4	0	4
BK5	HOSPITAL	BK5	HOSPITAL
77	1	55	1
OLD PORT	CELL 4	OLD PORT	CELL 4
176	0	170	1
Brown Field	Imperial Bch	Brown Field	Imperial Bch
15	14	8	4
ON SITE	ASYLUM LINE	On Site	Asylum Line
724	0	796	0

SYS CASES PROCESSED	
ER/CF	10
DEFERRED	0
CUBAN	4
NTA	10
UAC	0
ER	0
TGIS (NEG)	0
TTRT	0
TTRT Mismatch	3
WD	4
VWR	0
VEHICLE CASE	2
<b>TOTAL</b>	<b>33</b>

Virtual Processed Cases	
Murrieta	0
San Ysidro	0
El Centro BP	6
Calexico	0
Ft Lauderdale	3
Long Beach	1
San Diego Airport	0
Tecate	0
Downtown-CEU/TF	0
<b>TOTAL</b>	<b>10</b>

Turnover Notes:

- You will start with 792 detainees on-site.
- You have 0 in the asylum line.
- Old Port has 170 detainees plus 245 old port warehouse.
- 1 vehicle cases pending.
- 0 CTR/TGIS pending.

Previous Notes:

- 1 Haitian female infant LE Bullets sent.  
STILL AT HOSPITAL.
- 240 Haitian males out of 245 in the Old Port warehouse were enrolled in Sigma.
- 2 Daily Placement schedule were created one for AEU and one for Old Port.

**Lorenzo Geno Tovar**  
**SCBPO**  
**SYS/OTM AEU Supervisor**





1 MAYER BROWN LLP  
2 Matthew H. Marmolejo (CA Bar No. 242964)  
3 *mmarmolejo@mayerbrown.com*  
4 350 S. Grand Avenue  
5 25th Floor  
6 Los Angeles, CA 90071-1503  
7 Ori Lev (DC Bar No. 452565)  
8 (*pro hac vice*)  
9 *olev@mayerbrown.com*  
10 Stephen M. Medlock (VA Bar No. 78819)  
11 (*pro hac vice*)  
12 *smedlock@mayerbrown.com*  
13 1999 K Street, N.W.  
14 Washington, D.C. 20006  
15 Telephone: +1.202.263.3000  
16 Facsimile: +1.202.263.3300

17 SOUTHERN POVERTY LAW CENTER  
18 Melissa Crow (DC Bar No. 453487)  
19 (*pro hac vice*)  
20 *melissa.crow@splcenter.org*  
21 1101 17th Street, N.W., Suite 705  
22 Washington, D.C. 20036  
23 Telephone: +1.202.355.4471  
24 Facsimile: +1.404.221.5857

25 *Additional counsel listed on next page*  
26 *Attorneys for Plaintiffs*

27 **UNITED STATES DISTRICT COURT**  
28 **SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,  
Plaintiffs,  
v.  
Chad F. Wolf,<sup>1</sup> *et al.*,  
Defendants.

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 52 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Office for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

July 5, 2017

MEMORANDUM FOR:

Kevin K. McAleenan  
Acting Commissioner  
U.S. Customs and Border Protection

Scott K. Falk  
Chief Counsel  
U.S. Customs and Border Protection

FROM:

Dana Salvano-Dunn **LE**  
Acting Deputy Officer for Programs and Compliance  
Officer for Civil Rights and Civil Liberties

Susan Mathias **LE**  
Assistant General Counsel (Legal Counsel Division)  
Office of General Counsel

SUBJECT:

Declining to Inspect or Process Asylum Seekers at the San Ysidro,  
Hidalgo, Reynosa, and other Ports of Entry

Complaint No.  
Complaint No.  
Complaint No.  
Complaint No.  
Complaint No.  
Complaint No.  
Complaint No.

**LE**

The Office for Civil Rights and Civil Liberties (CRCL) has opened several complaints alleging violations of civil rights or civil liberties resulting from Customs and Border Protection (CBP) refusing to inspect and process undocumented foreign nationals seeking asylum at the San Ysidro Port of Entry (POE) and other POEs along the U.S.-Mexico border. The purpose of this memorandum is to notify you of the complaints and describe the allegations, inform you that CRCL will retain this complaint for investigation, and explain how CRCL will work with CBP during this investigation.

#### ALLEGATIONS

From July 11, 2016, through April 10, 2017, CRCL received multiple allegations that CBP refused to inspect and process undocumented foreign nationals seeking asylum in the United States at several POEs along the U.S.-Mexico border.

*Protected by Attorney-Client and Deliberative Process Privileges*

CRCL opened complaints based upon these allegations that included the following categories of conduct: (1) that CBP refused to inspect and process, and turned away, undocumented foreign nationals seeking asylum (“asylum seekers”) at the San Ysidro POE, and other POEs along the U.S.-Mexico border; (2) that CBP directed asylum seekers to obtain a ‘ticket’ from Mexican authorities with a return interview date to be determined; (3) that CBP officers informed asylum seekers that the United States is no longer accepting asylees, including those from Mexico or who allege that they are victims of organized crime; and (4) that CBP threatened attorneys accompanying asylum seekers and separated attorneys from those individuals at the San Ysidro POE.

CRCL is aware that on June 24, 2016, the San Ysidro Admissibility Enforcement Unit (AEU) processing and holding areas were closed for construction and AEU’s operations were diverted to trailers in the Ped West facility. CRCL understands while the facility was under construction, the San Ysidro POE implemented metering for some length of time to manage the incoming traffic. Despite CBP’s assurances that the San Ysidro POE has discontinued metering, CRCL has continued to receive allegations that CBP is turning away and failing to inspect and process undocumented foreign nationals who seek asylum. Accordingly, CRCL’s investigation will review the ways in which CBP implemented, and is possibly still applying, a metering system, particularly as it concerns undocumented foreign nationals seeking asylum.

Specific complaint allegations include the following:

- Complaint Number [REDACTED] LE [REDACTED] An executive at Human Rights First sent correspondence to the CBP Commissioner and DHS Deputy Secretary regarding reports that CBP turned away multiple asylum seekers at the San Ysidro POE, including those from Mexico and Haiti. The correspondent alleged that CBP officers have indicated that there are not enough CBP officers to process asylum seekers; CBP officers have told asylum seekers they cannot be processed at the San Ysidro POE; CBP officers have told asylum seekers they must return to Mexico to seek U.S. asylum; and CBP officers have told asylum seekers they must be brought in by migrant shelters in Tijuana to request protection. For example, the complaint alleged that:
  - CBP turned away a Mexican asylum seeker twice at San Ysidro and once at Otay Mesa after telling him that the United States was not accepting people for asylum.
  - CBP officers at the San Ysidro POE turned away a family of Cubans seeking protection after telling them to go to a migrant shelter in Mexico.
  - A CBP officer turned away a Guatemalan asylum seeker, telling him the United States was not giving asylum anymore.
- Complaint Number [REDACTED] LE [REDACTED] [REDACTED] allegedly presented himself at the San Ysidro and Otay Mesa POEs to apply for asylum on July 11, 13, and 14, 2016. [REDACTED] LE [REDACTED] alleged he was informed by CBP that CBP was not accepting any more people, and was not inspecting and processing undocumented foreign nationals seeking asylum.
- Complaint Number [REDACTED] LE [REDACTED] [REDACTED] alleged that he and his fourteen-year-old son, both of whom are Guatemalan, presented themselves to

*Protected by Attorney-Client and Deliberative Process Privileges*

2



U.S. authorities and claimed asylum. [LE] alleged that CBP Officers told them that there was no more space for asylum seekers and that they should seek asylum in Mexico. [LE] alleged that the CBP officer pushed them back into Mexico.

- Complaint Number [LE] [LE] alleged that she presented herself and her two children at the San Ysidro POE on November 3, 2016, to ask for asylum. [LE] alleged that when she told the agent that she and her children were fleeing because of death threats made against them, the agent told her that unless they were fleeing because of direct threats made by the government, they did not “qualify to ask for asylum” because the United States was no longer accepting asylum applications from people fleeing violence caused by organized crime. [LE] [LE] stated that after she spoke to the agent, she was taken back to Mexico.
- Complaint Number [LE]: Nicole Ramos, a U.S.-licensed attorney, alleged that a CBP Officer and CBP Supervisor Gomez threatened her on January 26, 2017, at the San Ysidro POE, and that Supervisor Gomez failed to comply with U.S. law. [LE] [LE] accompanied a Turkish asylum seeker and his legal representatives to the POE. At the POE, a CBP officer allegedly told [LE] that the asylum seeker first had to go to Grupo Beta, a Mexican governmental entity, to obtain a “ticket” with a return interview date in the future. [LE] then spoke to Supervisor Gomez, who ordered the other two attorneys who represented the asylum seeker to proceed through the POE. Allegedly, when Supervisor Gomez ordered [LE] to proceed through the POE, [LE] declined, as she would have left the asylum seeker unaccompanied. [LE] claimed that Supervisor Gomez refused to listen to her as she explained the asylum seeker’s circumstances, or to the asylum seeker who pled repeatedly that he was afraid of returning to his home country and was seeking asylum in the United States. [LE] contended that by refusing to accept the asylum seeker for processing, Supervisor Gomez failed to comply with 8 U.S.C. § 1225.<sup>1</sup> Supervisor Gomez also allegedly accused [LE] [LE] of lying and coaching the asylum seeker, and threatened to contact Grupo Beta to physically remove [LE] from the Mexican side of the POE.
- Complaint Number [LE] In *In Their Search For Asylum, Central Americans Find The U.S. Is Closing Its Doors*, National Public Radio reported that asylum seekers are being turned away at the border and are being told that the United States is no longer accepting asylum seekers. The story reported that CBP turned away [LE] [LE] his wife [LE], and their three-year-old daughter [LE] from the Hidalgo, Texas POE six times in early March 2017. [LE] said, “The last official told us they weren’t processing asylum applicants anymore and not to return. If we didn’t leave voluntarily, they would have us deported by Mexican immigration authorities.” A pro bono attorney accompanied the family on their seventh attempt, and CBP then processed them.

<sup>1</sup> 8 U.S.C. § 1225 mandates that all aliens present in the United States who are not admitted or who arrive shall be treated as applicants for admission and, accordingly, must be inspected by immigration officers. 8 U.S.C. § 1225(a)(1),(3). If “an immigration officer determines that an alien who is arriving in the United States . . . is inadmissible . . . the officer shall order the alien removed from the United States . . . unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i) (emphasis added).

- Complaint No. [REDACTED] LE: Nicole Ramos, a U.S. licensed attorney and Project Coordinator for the Border Rights Project of Al Otro Lado, alleged that CBP Sergeant Pacheco and CBP Shift Chief Soto failed to comply with U.S. law and international legal obligations by refusing to inspect and process [REDACTED] LE and her three-year-old son, [REDACTED] LE, when they presented themselves at the San Ysidro POE to seek asylum and request a credible fear interview. [REDACTED] LE alleged that Chief Soto advised [REDACTED] LE that she would have to go to Mexican Immigration to be placed on a list and obtain a ticket; without the tickets, CBP would not process her and her son.

### CRCL

*CRCL Mission.* CRCL supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL integrates civil rights and civil liberties into all the Department's activities:

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners;
- Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns;
- Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel; and,
- Leading the Department's equal employment opportunity programs and promoting workforce diversity and merit system principles.

*CRCL authorities.* Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL is charged with investigating and assessing complaints against DHS employees and officials of abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion. The procedures for our investigations and the recommendations they may generate are outlined in DHS Management Directive 3500.

*Access to information.* More particularly, 42 U.S.C. § 2000ee-1(d) grants CRCL access to the "information, material, and resources necessary to fulfill the functions" of the office, including the complaint investigation function. Management Directive 3500 further authorizes CRCL to:

- "Notify[] the relevant DHS component(s) involved of the matter and its acceptance by CRCL, and whether the matter will be handled by CRCL or by the component organization";
- "Interview[] persons and obtain[] other information deemed by CRCL to be relevant and require[] cooperation by all agency employees"; and,

*Protected by Attorney-Client and Deliberative Process Privileges*

4

- “Access[] documents and files that may have information deemed by CRCL to be relevant.”

*Reprisals forbidden.* In addition, 42 U.S.C. § 2000ee-1(e) forbids any Federal employee to subject a complainant or witness to any “action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to” CRCL in the course of this investigation.

This memorandum and its accompanying request for information are issued pursuant to these authorities.

*Privilege and required transparency.* Our communications with CBP personnel and documents generated during this review, particularly the final report, will be protected to the maximum extent possible by attorney-client and deliberative process privileges. Under 6 U.S.C. § 345(b), however, we submit an annual report to Congress—also posted on CRCL’s website—that is required to detail “any allegations of [civil rights/civil liberties] abuses . . . and any actions taken by the Department in response to such allegations.”

We look forward to working with your staff on this matter and will report back to you our findings and recommendations.

#### SCOPE OF REVIEW

The purpose of our review is to determine if the factual allegations in the complaints can be verified or disproven; if the facts that we find suggest that the Constitution, a Federal statute, or a Departmental policy has been violated; and what steps if any should be taken by CBP to address the complaints, both individually (if the problem is ongoing) and as a matter of policy. This review also will examine the additional areas specified above for similar concerns related to protection of civil rights and civil liberties.

#### QUESTIONS PRESENTED

This investigation will cover the following question(s):

1. Whether CBP conformed to DHS’s and CBP’s policies and procedures, to civil rights requirements, and to Federal and international legal obligations in processing asylum seekers.
2. Whether CBP officers at the San Ysidro POE and other specific POEs along the U.S.-Mexico border have refused to inspect and process undocumented foreign nationals seeking asylum in the United States.
3. Whether CBP officers or contractors directed asylum seekers to return to Mexico to obtain “tickets” to be processed at a future time.

*Protected by Attorney-Client and Deliberative Process Privileges*

5



4. Whether CBP officers or contractors informed asylum seekers that the United States is no longer accepting asylees, including those from Mexico, or those who claim to be victims of organized crime.
5. Whether CBP officers threatened attorneys and separated attorneys from clients seeking asylum at the San Ysidro POE.

It is possible that our investigation will reveal other matters of concern; if this occurs, we will inform you.

#### INITIATING THE INVESTIGATION

CRCL has taken steps to begin its investigation of these complaints, which are assigned to Senior Policy Adviser Ann Marie Shaw, and Contract Support Investigator Francine Hochberg-Giuffrida.

We request that CBP schedule an initial discussion with Ann Marie Shaw and Francine Hochberg-Giuffrida as soon as possible to discuss this complaint and our plans to review this matter. We look forward to working together to determine the facts surrounding this matter and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact Ann Marie Shaw by phone at [REDACTED] or by email at [REDACTED] and Francine Hochberg-Giuffrida by phone at [REDACTED] or by email at [REDACTED].

#### Copies to:

Rebekah Salazar  
Privacy and Diversity Office  
U.S. Customs and Border Protection  
[REDACTED]

Jessica R. Samuel  
Acting Deputy Director  
Office of Professional Responsibility  
U.S. Customs and Border Protection  
[REDACTED]

Kristy Montes  
Deputy Director, Diversity and EEO Division  
Privacy and Diversity Office  
U.S. Customs and Border Protection  
[REDACTED]

Gila Zawadzki-Phipps  
Management and Program Analyst

*Protected by Attorney-Client and Deliberative Process Privileges*

6



Custody Support and Compliance Division  
Privacy and Diversity Office  
U.S. Customs and Border Protection  
[REDACTED]

Todd Owen  
Executive Assistant Commissioner  
Office of Field Operations  
U.S. Customs and Border Protection  
[REDACTED]

Tyesha Bordeaux  
Chief of Staff  
Office of Field Operations  
U.S. Customs and Border Protection  
[REDACTED]

Via email:  
[JOINTINTAKE@cbp.dhs.gov](mailto:JOINTINTAKE@cbp.dhs.gov)  
[REDACTED]

Enclosure[s]

*Protected by Attorney-Client and Deliberative Process Privileges*

7

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 55 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

25  
26  
27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 767-28 Filed 09/30/21 PageID.67169 Page 3 of 5

**From:** WILLIAMS, JAYE M

**Sent:** Monday, October 31, 2016 10:37 PM

**To:** CHAVEZ, GLORIA I; ALLES, RANDOLPH D; CALVO, KARL H.; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; MORGAN, MARK A (USBP); VITIELLO, RONALD D (USBP); Owen, Todd C (AC OFO); YOUNG, EDWARD E; KOUMANS, MARK; GLAWE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL

**CC:** WHITE, BRENDA L; JANSON, ROBERT F; KOLLER, JULIE (OCC); HANNA, RENE; QUINN, TIMOTHY; NUNEZ-NETO, BLAS; MCALEENAN, KEVIN K; TAMAYO, ENRIQUE S; MORRIS, JOHN E; FRIEL, MICHAEL J

**Subject:** RE: CBP CAT UPDATE: Facilities and TDY costs

Thank you for the update and cost estimates for staffing.

DP

DP

Jaye M. Williams  
Assistant Commissioner  
Office of Finance

---

**From:** CHAVEZ, GLORIA I

**Sent:** Monday, October 31, 2016 9:40:53 PM

**To:** ALLES, RANDOLPH D; CALVO, KARL H.; WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; MORGAN, MARK A (USBP); VITIELLO, RONALD D (USBP); Owen, Todd C (AC OFO); YOUNG, EDWARD E; KOUMANS, MARK; GLAWE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL

**Cc:** WHITE, BRENDA L; JANSON, ROBERT F; KOLLER, JULIE (OCC); HANNA, RENE; QUINN, TIMOTHY; NUNEZ-NETO, BLAS; MCALEENAN, KEVIN K; TAMAYO, ENRIQUE S; MORRIS, JOHN E; FRIEL, MICHAEL J

**Subject:** CBP CAT UPDATE: Facilities and TDY costs

EAC Alles and all – Latest update on the facilities side for CBP. I made contact with the FEMA representative this evening and he provided a brief sitrep on where we are with the soft sided surge facility. I also spoke with Tucson leadership to get the update on the Nogales Processing Center and its status for being operational. I also connected with the Rio Grande Valley leadership on the standing up of the Weslaco Station Central Processing Center. I confirmed the status on the El Centro Processing / Detention facility in El Centro, CA.

Please see below:

**FEMA Tent City:**

After today' meeting at the NAC, C1 and S1 have approved moving forward with the plan to establish the infrastructure that would support [REDACTED]

DP

DP

DP

I hope this clarifies most of the questions today, please ensure that we have a contractual rep to attend FEMA meeting tomorrow. More updates to follow with regards to overall expenditures to provide to the Office of Finance.

DP

DP

GC

Regards,  
Deputy Division Chief Gloria I. Chavez  
Crisis Action Team  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue  
Washington, DC 20229  
(office)  
(cell)

---

**From:** MCALEEVAN, KEVIN K  
**Sent:** Sunday, October 30, 2016 9:04:06 AM  
**To:** ALLES, RANDOLPH D; CALVO, KARL H.; WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; CHAVEZ, GLORIA I  
**Cc:** WHITE, BRENDA L; JANSON, ROBERT F  
**Subject:** RE: Facilities

EAC Alles,

I just sent a note out to the leadership team on the CAT actions. Here were the bullets I pulled as priorities for tomorrow:

- Facilities
  - *Need to implement Weslaco processing center.*
  - *Need immediate assessment of Nogales facility and ability to use for UACs and FMUAs processing/holding in short term.*
  - *Need to come to agreement on FEMA plan and funding for establishing base for scalable, soft-sided surge facility.*
  - Continue to press HHS for significant surge capacity decision.
- I would add continued work on the El Centro facility intended for Haitian processing, that you noted below, as well.

Please advise with any questions or concerns. Thank you,

KM

---

**From:** ALLES, RANDOLPH D  
**Sent:** Sunday, October 30, 2016 11:56 AM  
**To:** CALVO, KARL H.; WILLIAMS, JAYE M.; LANDFRIED, PHIL A;  
BORKOWSKI, MARK S.;  
**Cc:** WHITE, BRENDA L.; JANSO, ROBERT F.; MCALEENAN, KEVIN K  
**Subject:** RE: Facilities LEP

Folks, Direction from C1 is to continue El Centro work and new task of looking at bringing the Nogales facility from 2014 back on line.

Karl, this is a OFAM lead with necessary support from CFO, Procurement & OIT. Need to know the possibilities tomorrow.

S/F  
R. D. Alles (Cell)

---

**From:** ALLES, RANDOLPH D  
**Sent:** Sunday, October 30, 2016 11:47:07 AM  
**To:** MCALEENAN, KEVIN K  
**Cc:** WHITE, BRENDA L; CALVO, KARL H.; JANSO, ROBERT F; LANDFRIED, PHIL A; BORKOWSKI, MARK S; WILLIAMS, JAYE M  
**Subject:** Facilities

Sir,

DP

S/F  
R. D. Alles (Cell)

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 56 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



---

**From:** FLORES, PETE ROMERO  
**Sent:** Wednesday, November 2, 2016 7:56 AM  
**To:** Owen, Todd C (AC OFO); BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P  
**Cc:** WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY  
**Subject:** RE: CBP MIGRATION CAT UPDATE 11/01/16

Thanks for the update and position direction on open items.

Pete

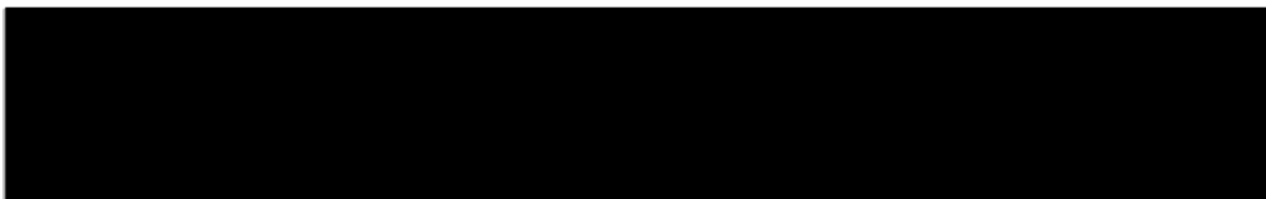
---

**From:** Owen, Todd C (AC OFO)  
**Sent:** Wednesday, November 02, 2016 4:31:53 AM  
**To:** FLORES, PETE ROMERO; BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P  
**Cc:** WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY  
**Subject:** FW: CBP MIGRATION CAT UPDATE 11/01/16

Pete, Will, Hector, Dave,

After several frustrating weeks, we are finally seeing engagement by senior leaders at the department and in the administration on our migration and detention issues. C1 has established a single CBP crisis action team, being led by BP Chief Gloria Chavez, with Enrique Tamayo as her Deputy. Several efforts underway, from building soft sided tents in several locations in Texas and California, to foreign assistance efforts, more flights back to Haiti, and potential legal changes. Below is the end of day summary from last night, to give you a sense of what is taking place. I will forward these on to you each day so you have visibility into the ongoing discussions and actions being under taken or considered.

A few items to highlight: (1) Disconnect within senior leadership about building soft sided tents at ports of entry or BP stations. The OFO position on this is that this is not an option for us. We lack the physical space and more importantly the sanitary items like showers and bathrooms for large scale housing in a POE. If you are approached by FEMA or others on this, our position is that we do not support.



(4) Use of the Family Residential Centers at Dilley and Carnes as processing sites, moving away from ER to NTA, with the goal of cutting time in detention for FAMU from the 15 days now, to 2-3 days. We all are concerned with the pull effect this decision to almost immediately release family units would have.

We'll be providing periodic updates. If you have any questions please let me know.

Thx.

*Todd C. Owen*  
*Executive Assistant Commissioner*  
*Office of Field Operations*  
*U.S. Customs & Border Protection*

---

**From:** CHAVEZ, GLORIA I

**Sent:** Tuesday, November 01, 2016 7:40 PM

**Subject:** CBP MIGRATION CAT UPDATE 11/01/16

Deputy Commissioner and all – Both EAC Owen and I attended several migration meetings today with C1 and staff. Some of the discussions were with S1 and others and with WHT staff. We provided situational awareness to all parties on CBP's operational posture, challenges, and requirements to ease overcrowding at our CBP temporary holding facilities (POEs, BP stations – to include Ursula). Below is the daily Migration CAT update for the CBP Senior Leadership.

**Planning:**

- CBP Migration CAT team representatives attended DHS FEMA coordination meeting regarding UAC contingency planning.
- The objective is to support detention space build out capacity within 30-days, FEMA is exploring multiple sites; San Marcos, TX, Mission, TX, and Sharpe Army Depot near Stockton, CA.
- ICE/ERO did not attend or dial in.
- CBP expressed concerns on assuming a non-traditional role of managing detention centers, while simultaneously achieving critical border security mission essential functions.

**Get backs:**

- Reconvene another FEMA coordination meeting to clearly define agency and component roles and responsibilities as it relates to detention management.
- Integrate ICE/ERO into the planning and coordination process.
- Validate CBP transportation capabilities to support transportation to facilities in Texas.

**Facilities:**

- CBP Migration CAT members, CBP procurement, CBP Finance, CBP OCC and others attended and participated in the discussions to narrow down the search to two locations (Moore Facility in Mission, TX or the Gary Job Corps Facility in San Marcos, TX) that could possibly meet our CBP requirements to transfer out detainees from CBP temporary holding facilities. We are working with FEMA to evaluate which of these locations is the most feasible. Thus far, the Gary Facility [REDACTED] in San Marcos, TX seems to be the one that offers the largest amount of space and the most logistical support. This facility is also located close to an airport.
- FEMA asked for CBP support to assist in housing, care, and transportation for all processed populations. CBP was the only one at the meeting, there was **NO ICE** rep in attendance. CBP advised that this was not within the scope of CBP duties to staff detention facilities.
- CBP requested that FEMA expand its focus from UACs to include FMUAs.
- This facility will house processed aliens from the CBP POEs and USBP stations to include the Ursula facility. This is a 5 hour trip one-way.
- The facility would be manned by ICE-ERO or another contract service provided by ICE.
- CBP will provide support with transportation, if required due to lack of ICE capabilities with transport.
- FEMA stated that S2 will be contacting the Dept. of Labor to get approval and secure this facility.
- Due to the contractual process, this could take up to 4 to 6 weeks before standing up the soft-sided housing facility in San Marcos, TX.

**Short Term:**

- CBP – RGV USBP Sector will be housing detainees in a centralized location at Ursula. Capacity for Ursula is [REDACTED] however, we have been over [REDACTED] bodies in recent weeks.
- If capacity is reached that is unmanageable at Ursula, RGV Sector will institute a process to laterally move detainees to other stations within the RGV area of responsibility.
- If capacity is reached at all stations in the RGV Sector, coordination will be done with Laredo Sector and Del Rio Sector to ease the burden of overcrowding.

**NOTE:** After the call with S1 today, CBP was asked to look at soft-sided housing that can be stood up at CBP locations (POEs and Stations). The CAT will begin assessing this and provide an update.

**NOTE:** FM&E has provided an update with regards to the Nogales Processing Center (NPC). The latest assessment is that the facilities-related requirements will be completed by November 28, 2016. Once facility is operational, USBP is offering for consideration the permanent transfer of the NPC facility to ERO for them to manage fully. This will be a discussion and decision point by CBP leadership and once concurrence is reached for engagement with ERO.

**NOTE:** El Centro Processing/Detention Facility will undergo a soft opening on November 14<sup>th</sup> and a full opening November 28<sup>th</sup>.

**Finance:**

- At the FEMA meeting, S1 had given approval to proceed with requirements as needed to support the UAC transfer process.
- CBP OF is already assessing our expected expenditures for the 1<sup>st</sup> quarter of FY17 to provide a snapshot.

Case 3:17-cv-02366-BAS-KSC Document 767-29 Filed 09/30/21 PageID.67177 Page 6 of 7

- Next steps is for the potential to outsource the humanitarian portion of the USBP work to G4S. \$60 million addition to G4S contract and a prioritization of background investigations for G4S employees.

**Policy:**

- 

- Of urgent need is ERO at the table to engage and identify their commitment and ownership on some of these areas.

**ERO:**

- San Antonio ERO - FOD (Daniel Bible) was directed to increase FAMU pick-ups from RGV. Target is [REDACTED] above normal rate. The CAT team will monitor.
- The El Centro Detention Facility plan was submitted for review today to ERO Phil Miller. Jaime Salazar will track from his end.
- ERO has no visibility on the IJ discussion. Jaime Salazar verbally briefed Chris Shanahan (ERO) on the concept and will provide Phil Miller the same requesting ERO feedback on the transporting piece and their role in category 5.
- ERO today executed a change in their staff line-up and are bringing up FODs from field to replace Chris Shanahan who will depart Friday and his Deputy.

**COMMS:**

- Consistent messaging from CBP should support the current emerging crisis which is FMUAs, UACs, and Haitians in that order. We need to be consistent across the board so that it is the same priority given by all entities. If this line-up has changed, please advise.
- Question for CBP Leadership to consider – at what point do we start messaging to external audiences since ERO are beginning to engage NGOs seeking support at other locations?

**CAT DAILY STATS:**

**CBP (OFO/BP) Apprehensions for October 31, 2016**

UAC: 280  
FAMU: 691  
Single: 1053  
Total: 2024

**CBP (OFO/BP) in Custody for October 31, 2016**

UAC: 366  
FAMU: 2551  
Single: 1238  
Total: 4165

Thank you for the support.  
GC

Case 3:17-cv-02366-BAS-KSC Document 767-29 Filed 09/30/21 PageID.67178 Page 7 of 7

Regards,  
Gloria I. Chavez  
Deputy Division Chief  
Crisis Action Team  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, Wash. D.C.

(O)  
(C)

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 57 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).



1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

**EXHIBIT**

Exhibit 256 6/10/2020

exhibitstickers.com

**From:** HUTTON, JAMES R  
**Sent:** Wednesday, November 2, 2016 7:25 AM  
**To:** CHAVEZ, GLORIA I; SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; JAQUEZ, PETER; HULL, AARON A; SALAZAR, JAIME  
**Subject:** RE: IJ and Asylum Surge

Good copy....I figured we were.

J. Ryan Hutton  
Deputy Executive Director (A)  
Admissibility and Passenger Programs



**Warning:** This document is UNCLASSIFIED//FOR OFFICIAL USE ONLY (U//FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official. No portion of this report should be furnished to the media, either in written or verbal form. *This document, and any attachment(s) hereto, may contain confidential and/or sensitive U.S. Government information, and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient(s). Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this document must be approved by U.S. Customs and Border Protection.*

**From:** CHAVEZ, GLORIA I  
**Sent:** Wednesday, November 02, 2016 6:33 AM



**Subject:** RE: IJ and Asylum Surge

Ryan - We are tracking the same. I expressed the same at yesterday's meetings and so did EAC Owen when meeting with C1. Beverly was present during those discussions as well.



We are tracking buddy.

GC

Gloria I. Chavez  
Deputy Chief - Law Enforcement Operations  
U.S. Border Patrol Headquarters  
Washington D.C.

---

**From:** HUTTON, JAMES R  
**Sent:** Wednesday, November 02, 2016 3:21:50 AM  
**To:** CHAVEZ, GLORIA I; SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; JAQUEZ, PETER; HULL, AARON A; SALAZAR, JAIME  
**Subject:** RE: IJ and Asylum Surge

Gloria

DP

---

**From:** CHAVEZ, GLORIA I  
**Sent:** Tuesday, November 01, 2016 10:39:19 PM  
**To:** NUNEZ-NETO, BLAS; HANNA, RENE; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; HUTTON, JAMES R; JAQUEZ, PETER; HULL, AARON A; SALAZAR, JAIME  
**Cc:** QUINN, TIMOTHY  
**Subject:** RE: IJ and Asylum Surge

DP

GC

---

**From:** NUNEZ-NETO, BLAS  
**Sent:** Tuesday, November 01, 2016 10:29 PM

**Subject:** RE: IJ and Asylum Surge

DP

---

**From:** HANNA, RENE

**Sent:** Tuesday, November 01, 2016 10:20:26 PM

**To:** NUNEZ-NETO, BLAS; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I; HUTTON, JAMES R

**Cc:** QUINN, TIMOTHY

**Subject:** RE: IJ and Asylum Surge

---

**From:** NUNEZ-NETO, BLAS

**Sent:** Tuesday, November 01, 2016 10:16:31 PM

**To:** HANNA, RENE; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I; HUTTON, JAMES R

**Cc:** QUINN, TIMOTHY

**Subject:** RE: IJ and Asylum Surge

---

**From:** HANNA, RENE

**Sent:** Tuesday, November 01, 2016 10:06:51 PM

**To:** NUNEZ-NETO, BLAS; KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I

**Cc:** QUINN, TIMOTHY

**Subject:** RE: IJ and Asylum Surge

DP

Again, appreciate your work and quick turnaround very much.

Thanks,  
Rene

---

**From:** NUNEZ-NETO, BLAS

**Sent:** Tuesday, November 01, 2016 7:14:11 PM

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67184 Page 6 of 11

To: KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I  
Cc: HANNA, RENE; QUINN, TIMOTHY  
Subject: RE: IJ and Asylum Surge

**AC**

Issue: Migration Surge along the Southwest Border

Overview:

U.S. Customs and Border Protection is currently facing a confluence of factors that are putting an already strained immigration enforcement system at risk of breaking down. These factors include:

- \* Record numbers of family units, largely from Central America, appearing at the border between the ports of entry and increasingly at the ports of entry in order to claim credible fear;
- \* Elevated numbers of unaccompanied children continuing to arrive at the border;
- \* A surge in migration of Haitian nationals residing in Brazil;
- \* An apparent spike in the number of Mexican nationals appearing at the San Ysidro port of entry in order to claim credible fear.

As of the morning of November 1, the USBP had 1,821 family units in custody, with 671 having been in CBP facilities for more than 72 hours. Over the weekend there were approximately 900 family units who were processed and awaiting pickup out of CBP temporary holding facilities at POEs and BP Stations. [REDACTED]

**DP**

**DP**

From: KOLLER, JULIE (OCC)  
Sent: Tuesday, November 01, 2016 6:46 PM

[REDACTED]

Subject: RE: IJ and Asylum Surge

**AC**

From: NUNEZ-NETO, BLAS  
Sent: Tuesday, November 01, 2016 6:32:49 PM  
To: KOLLER, JULIE (OCC); SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; CHAVEZ, GLORIA I  
Cc: HANNA, RENE; QUINN, TIMOTHY  
Subject: RE: IJ and Asylum Surge

**DP**



[REDACTED]

From: KOLLER, JULIE (OCC)  
Sent: Tuesday, November 01, 2016 6:26 PM

[REDACTED]

Subject: RE: IJ and Asylum Surge

AC

From: NUNEZ-NETO, BLAS  
Sent: Tuesday, November 01, 2016 5:55:17 PM  
To: SCHROEDER-FAWCETT, JENNIFER L; GOOD, BEVERLY; HOFFMAN, TODD A; TAMAYO, ENRIQUE S; KOLLER, JULIE (OCC)  
Cc: HANNA, RENE  
Subject: RE: IJ and Asylum Surge  
I have some questions about the paper:

DP

From: SCHROEDER-FAWCETT, JENNIFER L  
Sent: Tuesday, November 01, 2016 5:16 PM

[REDACTED]

Subject: FW: IJ and Asylum Surge

Sir,

As requested.

Jennifer Schroeder Fawcett  
(A)Director  
Enforcement Programs  
Customs and Border Protection

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67187 Page 9 of 11

From: SCHROEDER-FAWCETT, JENNIFER L  
Sent: Tuesday, November 01, 2016 3:29:23 PM  
To: HANNA, RENE  
Cc: HOFFMAN, TODD A; HUTTON, JAMES R; GOOD, BEVERLY; TAMAYO, ENRIQUE S; THORNBLOOM, LINDA A; VAQUERO, ROBERTO; MANUEL CALVILLO [REDACTED] KOLLER, JULIE (OCC); SALAZAR, JAIME  
Subject: FW: IJ and Asylum Surge  
Rene;

## DP and AC

Thank you,

Jennifer Schroeder Fawcett  
(A)Director  
Enforcement Programs  
Washington, DC 20229  
[REDACTED]

WARNING: This document is LAW ENFORCEMENT SENSITIVE and is designated for OFFICIAL USE ONLY. It contains information that may be exempt from public release under the Freedom of Information Act (5USC552). This document is to be controlled, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information, and is not to be released to the public or personnel who do not have a valid "need-to-know" without prior approval from CBPs Office of Field Operations.

From: HANNA, RENE  
Sent: Tuesday, November 01, 2016 12:02 PM  
[REDACTED]

Subject: RE: IJ and Asylum Surge

Understood. Either put holds where we need their input or please ask Jaime to coordinate today. S1 understands that this is still under development but we need to have somethings sketched out, if even CBP equities by 330pm please.

Rene N. Hanna  
Deputy Chief of Staff (Policy)  
Office of the Commissioner  
U.S. Customs and Border Protection  
[REDACTED]

From: HOFFMAN, TODD A  
Sent: Tuesday, November 01, 2016 12:00 PM  
[REDACTED]

Confidential

AOL-DEF-00043581

2-SER-312

11

Subject: RE: IJ and Asylum Surge

Rene,

**DP**

Todd A. Hoffman  
Executive Director, Admissibility and Passenger Programs  
Office of Field Operations  
U.S. Customs and Border Protection

From: HANNA, RENE  
Sent: Tuesday, November 01, 2016 11:17 AM

Subject: RE: IJ and Asylum Surge

All,

However, I have subsequently received guidance from DHS DCOS and COS that they want us to continue the paper. The areas we may be able to touch on are below. I welcome additional thoughts and work to advance this paper. The bottom line is that it will be used by SI and CI at a Principal's Committee meeting at the WH on Wednesday to engage DOJ EOIR.

**AC**

**AC**

I know the challenges due to everything we discussed yesterday. However, can you help fill in these sections to the best of your ability? We can raise cons in the paper so SI is aware.

Case 3:17-cv-02366-BAS-KSC Document 767-30 Filed 09/30/21 PageID.67189 Page 11 of 11

Thank you,  
Rene

Rene N. Hanna  
Deputy Chief of Staff (Policy)  
Office of the Commissioner  
U.S. Customs and Border Protection

From: SCHROEDER-FAWCETT, JENNIFER L  
Sent: Monday, October 31, 2016 11:46 AM

Subject: IJ and Asylum Surge

All;

Please see attached draft updates as requested.

Jennifer Schroeder Fawcett  
(A)Director  
Enforcement Programs  
Washington, DC, 20229

WARNING: This document is LAW ENFORCEMENT SENSITIVE and is designated for OFFICIAL USE ONLY.  
It contains information that may be exempt from public release under the Freedom of Information Act (5USC552). This document is to be controlled, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information, and is not to be released to the public or personnel who do not have a valid "need-to-know" without prior approval from CBPs Office of Field Operations.

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 58 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

25  
26  
27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



Case 3:17-cv-02366-BAS-KSC Document 767-31 Filed 09/30/21 PageID.67192 Page 3 of 5

**From:** FLORES, PETE ROMERO

**Sent:** Wednesday, November 2, 2016 7:56 AM

**To:** Owen, Todd C (AC OFO); BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P

**CC:** WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY

**Subject:** RE: CBP MIGRATION CAT UPDATE 11/01/16

Thanks for the update

DP

Pete

---

**From:** Owen, Todd C (AC OFO)

**Sent:** Wednesday, November 02, 2016 4:31:53 AM

**To:** FLORES, PETE ROMERO; BROOKS, WILLIAM K; MANCHA, HECTOR; HIGGERSON, DAVID P

**Cc:** WAGNER, JOHN P; HOFFMAN, TODD A; GOOD, BEVERLY

**Subject:** FW: CBP MIGRATION CAT UPDATE 11/01/16

Pete, Will, Hector, Dave,

After several frustrating weeks, we are finally seeing engagement by senior leaders at the department and in the administration on our migration and detention issues. C1 has established a single CBP crisis action team, being led by BP Chief Gloria Chavez, with Enrique Tamayo as her Deputy. Several efforts underway, from building soft sided tents in several locations in Texas and California, to foreign assistance efforts, more flights back to Haiti, and potential legal changes. Below is the end of day summary from last night, to give you a sense of what is taking place. I will forward these on to you each day so you have visibility into the ongoing discussions and actions being under taken or considered.

A few items to highlight:

DP

DP

DP

(3) S1 directed JTF-W to move forward with Operation "All In It", as a means of deterrence for human smugglers.

DP

DP

DP

We'll be providing periodic updates. If you have any questions please let me know.

Thx.

*Todd C. Owen*

*Executive Assistant Commissioner*

*Office of Field Operations*

*U.S. Customs & Border Protection*

---

**From:** CHAVEZ, GLORIA I

**Sent:** Tuesday, November 01, 2016 7:40 PM

**Subject:** CBP MIGRATION CAT UPDATE 11/01/16

Deputy Commissioner and all – Both EAC Owen and I attended several migration meetings today with C1 and staff. Some of the discussions were with S1 and others and with WHT staff. We provided situational awareness to all parties on CBP's operational posture, challenges, and requirements to ease overcrowding at our CBP temporary holding facilities (POEs, BP stations – to include Ursula). Below is the daily Migration CAT update for the CBP Senior Leadership.

**DP**

**DP**

**CAT DAILY STATS:**

**CBP (OFO/BP) Apprehensions for October 31, 2016**

**UAC: 280**  
**FAMU: 691**  
**Single: 1053**  
**Total: 2024**

**CBP (OFO/BP) in Custody for October 31, 2016**

**UAC: 366**  
**FAMU: 2551**  
**Single: 1238**  
**Total: 4165**

Thank you for the support.  
GC

Regards,  
Gloria I. Chavez  
Deputy Division Chief  
Crisis Action Team  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, Wash. D.C.



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 59 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

25  
26  
27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

**From:** CHAVEZ, GLORIA I

**Sent:** Wednesday, November 2, 2016 7:02 PM

**To:** MCALEENAN, KEVIN K; MORGAN, MARK A (USBP); Owen, Todd C (AC OFO); YOUNG, EDWARD E; ALLES, RANDOLPH D; VITIELLO, RONALD D (USBP); WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; KOUMANS, MARK; GLAWE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL; HOOVER, CRINLEY S; HULL, AARON A; JAQUEZ, PETER; HUDSON, RICHARD M; CALVO, KARL H; KOLLER, JULIE (OCC); WHITE, BRENDA L; JANSON, ROBERT F; FRIEL, MICHAEL J; BRISTOW, JUSTIN A

**CC:** TAMAYO, ENRIQUE S; QUINN, TIMOTHY; HANNA, RENE; NUNEZ-NETO, BLAS; MORRIS, JOHN E; KUHN, CHRISTOPHER S; FLANAGAN, PATRICK S; SALAZAR, JAIME

**Subject:** RE: CBP MIGRATION CAT UPDATE 11/02/16

Deputy Commissioner and all: Today, I attended several pre-briefs with the Commissioner and a meeting at the NAC. The topics of discussion were centered around migration flow (Haitians, FMUAs, UACs, single adult males, etc.), Facilities (soft-sided tent facility) was a huge topic of the day followed by Foreign Assistance, Law Enforcement Efforts, and External Communication. One point of clarification that was decided today with C1 approval was that the FEMA soft-sided tents would be considered CBP Processing Center Facilities.

**Agency Updates: Operational Operation consideration:**

- CBP is actively exploring the implementation of soft-sided facilities adjacent to Ports of Entry's and Border Patrol Stations to relieve the stress of aliens in custody. Priority is being given to the POEs due to their operational footprint.
- Locations are being assessed by operational component offices for recommendation.
- To support soft-sided facilities, CBP is exploring the expansion of contract services for facilities such as medical, food service, transport, etc..
- CBP is also exploring the cost outliers for establishing an Ursula like m o p d e c e s s i n g facilities.
- Short term solution (within 30 days): CBP is recommending to FEMA to proceed with a soft-sided facility at the ICE Port Isabel Detention Facility grounds in Port Isabel, TX. This would provide immediate relief to the Rio Grande Valley Sector Border Patrol stations and the Ports of Hidalgo and Brownsville, TX. The facility is located about 1 hour from McAllen, TX (Ursula) and 1 hour from Weslaco, TX (Weslaco CPC). Timeline for implementation is 7- 9 days.
- Long Term solution (30 days + implementation): Soft sided facilities that are larger are also being explored. These facilities would be stood up in either Mission ( [REDACTED] beds) and San Marcos, TX ( [REDACTED] beds). FEMA is working the required documentation and coordinating with CBP.
- Each facility will be a temporary holding facility and managed by a small cadre of CBP officers/agents and a large footprint of contract personnel until custodial transfer is completed.

**Resources/Facilities/Finance:**

- To support the expansion of E3 case processing in South Texas, U.S. Border Patrol will temporarily assign [REDACTED] agents to RGV.
- This station will serve as a E3 processing station, and aliens processed there will be relocated to Ursula or soft-sided facilities until custodial transfer can be completed.
- RFI sent to RGV w a s s u b m i t t e d t o t h e U r s u l a f o o t p r i n t / m o d e l as a template for additional locations requirements.
- The Nogales Processing Station is also being considered as an overflow site that will be ready later in November.
  - USBP and the Office of Procurement, continues to complete the milestones for this week, focusing on formalizing required procurement documents. OFAM will be finalizing the statements of work to cover construction, rentals and janitorial service by Friday, November 4, 2016. The period of performance will be a 3 month base with 3 month options.
- The El Centro Processing Center is scheduled for a soft opening November 14<sup>th</sup> and a hard opening November 28<sup>th</sup>.
- El Centro will support the Calexico port of entry with processing single adult Haitians.
- All Haitians will be processed for expedited removal and immediately turned over to ICE/ERO.
- OF is currently working with the CBP CAT to cost out the operational expense profile for the migration surge including TOY, overtime, processing facilities, transportation and contracts to support the humanitarian efforts
- OF continues to engage with OHS and OMB regarding potential funding requirements to ensure funding availability during a continuing resolution

**OGA Coordination:**

- Weekly UCG Teleconference:
- ORR is currently at 86% capacity (75% if the reserve beds are included)
- The ORR Homestead facility is currently holding [REDACTED] with a total capacity of [REDACTED]. During hurricane season they limit the bed space to [REDACTED] due to the evacuation protocols.
- Fort Bliss is at [REDACTED]. The capacity is [REDACTED]. ORR tries to maintain Fort Bliss at maximum occupancy.
- The addition of semi-permanent facilities at Fort Bliss have been approved by DOD and is under review.
- HHS and FEMA are pursuing to activate Sharp Army Depot if needed. Although DOD concurs, the Sharpe Army Depot is approximately 450 miles north of San Ysidro, CA (7 hour drive time)

**ERO:**

- CBP CAT working with CBP CRCL to provide ERO a list of NGOs to work with and expand assistance footprint with FMUAs.




Case 3:17-cv-02366-BAS-KSC Document 767-32 Filed 09/30/21 PageID.67198 Page 4 of 4

- CBP CAT Liaison to ERO will be participating in telecon with Lutheran Immigration services tomorrow who will be proposing additional NGO support in the Houston, Texas area. It is anticipated that 300-500 proposed beds and ERO would provide transport.

Thank you.  
GC

Regards,  
Gloria I. Chavez  
Deputy Division Chief  
Crisis Action Team  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, Wash. D.C.



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>1</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26  
27  
28

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 61 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 767-34 Filed 09/30/21 PageID.67208 Page 3 of 7

**From:** MCKINNIS, FRANK H (OCC)  
**Sent:** Wednesday, November 16, 2016 11:09 AM  
**To:** LONGORIA, FRANK S; CEREZO-SUAREZ, CARLOS  
**Subject:** FW: CBP MIGRATION CAT - COB 11/04/16

AC

---

**From:** MCKINNIS, FRANK H (OCC)  
**Sent:** Tuesday, November 15, 2016 6:30:50 PM  
**To:** KOLLER, JULIE (OCC)  
**Cc:** COUREY, MARC BENNETT (OCC); Slocum, Louisa (OCC); CASTANEDA, BELINDA C (OCC); HUMPHRIES, ROBERT H (OCC); MERCER, MEREDITH L (OCC); MCCRANIE, MITCH (OCC); HUMPHRIES, ROBERT H (OCC); MCKINNIS, FRANK H (OCC)  
**Subject:** RE: CBP MIGRATION CAT - COB 11/04/16

AC

Confidential

AOL-DEF-00904527

**AC**

Frank H. McKinnis, III  
Assistant Chief Counsel, Laredo  
U.S. Customs and Border Protection



Confidential

AOL-DEF-00904528

**From:** KOLLER, JULIE (OCC)

**Sent:** Saturday, November 05, 2016 8:41 AM

**Subject:** FW: CBP MIGRATION CAT - COB 11/04/16

AC

AC

**From:** CHAVEZ, GLORIA I

**Sent:** Friday, November 04, 2016 7:16:17 PM

**To:** MCALEENAN, KEVIN K; MORGAN, MARK A (USBP); Owen, Todd C (AC OFO); SMITH, BRENDA BROCKMAN; YOUNG, EDWARD E; ALLES, RANDOLPH D; VITIELLO, RONALD D (USBP); WILLIAMS, JAYE M; LANDFRIED, PHIL A; BORKOWSKI, MARK S; SAHAKIAN, DIANE V; JACKSON, ADAM S; KOUMANS, MARK; GLAWIE, DAVID; CASTANEDA, BELINDA C (OCC); Slocum, Louisa (OCC); GOOD, BEVERLY; PROVOST, CARLA (USBP); LUCK, SCOTT A (USBP); KLEIN, MATTHEW (OPR); YEAGER, MICHAEL; HOOVER, CRINLEY S; HULL, AARON A; JAQUEZ, PETER; HUDSON, RICHARD M; CALVO, KARL H.; KOLLER, JULIE (OCC); WHITE, BRENDA L; JANSON, ROBERT F; FRIEL, MICHAEL J; BRISTOW, JUSTIN A; BURKE, JENNY L; BP Field Chiefs; BROOKS, WILLIAM K; BOYCE, MARIA L; HIGGERSON, DAVID P; FLORES, PETE ROMERO; MANCHA, HECTOR; WEBB, BENJAMIN E.; DUTCH, FRANCIS; HEAVEY, BRENDAN P.

**Cc:** QUINN, TIMOTHY; HANNA, RENE; NUNEZ-NETO, BLAS; FLANAGAN, PATRICK S; SALAZAR, JAIME; VISCONTI, JAY; CBP-CAT

**Subject:** RE: CBP MIGRATION CAT - COB 11/04/16

Deputy Commissioner and all – Please see the below end of day report for the CBP Migration Crisis Action Team (CAT) for your situational awareness.

**J1-ADMINISTRATION:**

- Tracking Battle Rhythm and Daily Reports on Web EOC.
- Compiled and drafted reports for CBP CAT Team.
- Notified offices for daily updates on Migration activities for reporting purposes.
- CAT Presentation completed for Senior Management Council Presentation.

**J2-INTELLIGENCE:**

- 2 Haitian subjects were processed and interviewed at the Bota POE in El Paso, Texas. They stated that they had gone eastbound because they heard it was easier to go through the process.
- CBP CAT requested a questionnaire from OI to send the field.

Confidential

AOL-DEF-00904529

- OI is developing a trend analysis of all admissibles with focus on Haitians.

**J3 OPS:**

- Attended planning meeting with FEMA to establish a unified plan to create a soft-sided facility utilizing FEMA contractors.
- The CBP-CAT in coordination with the CBP Office of Facilities and Management (OFAM) discussed the feasibility of establishing soft-sided facilities in San Marcos, TX.
- In anticipation, the CBP-CAT is actively developing contingency "off-the-shelf" planning in coordination with OFAM and CBP Budget to quickly implement the soft-side option.
  - CAT identified the requirements to Procurement, FM&E, BP Logistics, OFO Facilities to develop a standardized plan to utilize a 500 person soft-sided facility template (blocks) to establish temporary facilities as needed for overflow.
- Conference call with Laguna Niguel to discuss the expansion of the janitorial contract at the El Centro facility.

**J4 LOGISTICS:**

- Nogales Processing Center: OFAM, in coordination with USBP and the Office of Procurement, continues to complete the milestones for this week, focusing on formalizing required procurement documents. OFAM will continue to coordinate requirements with USBP and work closely with the Office of Procurement to meet the facilities-related requirements by 11/28/2016.
- El Centro ICE Facility: Rental furniture confirmed for 11/9. Permanent furniture will be delivered no later than 12/23/16. OFAM plans site visit on 11/8 to confirm deep cleaning and CCTV repairs with ICE. Still on track for 11/14 soft opening (OFO dry run operations) and 11/28 Go Live date.
- Possible soft-sided processing facilities at CBP sites (for short term response - 7-9 day): FEMA will not make their contract available to CBP; therefore, OFAM is working with Procurement for CBP to pursue a contract for erecting temporary, soft-sided processing structures at CBP sites. OFAM facility SMEs are working with OFO and USBP on the currently targeted CBP locations, and OFAM is working with GSA to discuss the LPOE sites because they are owned or leased by GSA.

**J5 PLANNING:**

Through DHS led coordination efforts the following are the strategic phases for addressing the surge of migration along the Southwest border:

**J6-COMMUNICATIONS:**

- Assisted in facilitating statistics on Haitian counts at ports of entry and between ports of entry.
- Continue to facilitate reporting requirements.
- Planned for weekend reporting.

**J7-TRAINING:**

- No updates.

**J8-FINANCE:**

- OF is currently working with the CBP CAT to cost out the operational expense profile for the migration surge including TDY, overtime, processing facilities, transportation and contracts to support the humanitarian efforts.
- OF continues to engage with DHS and OMB regarding potential funding requirements to ensure funding availability during a continuing resolution.
- Contracting out caretaking functions (G4S) – Donna Twyford has lead.

**J9-LIAISON:**

- 200 additional cots to Sister Norma at her request/from FEMA working out specifics on delivery.
- City of McAllen will set up a new tent with Sister Norma this evening and through the weekend that will take an additional 270 FAMU.
- ERO working on "internal" flow increase and additional output from CPC within 1-2 days. They have increased based on



number by 100-200 day in the past few days.

- Call set up with VTC GM by HQ ERO to see if he can increase busses out of McAllen consistent with City and NGO flow.
- ERO CAT Team is operational FOD Tom Decker is running it.

**NOTE: OCC**

**AC**

**AC**

**NOTE: OFO - XD Beverly Good:**

- El Paso City Emergency Services offered the Tigua Indian recreation center for overflow use.
- The Recreation Center has restrooms, and showers. XD Good has an issue paper and photos available.

**NOTE: OPA:**

Legal Migration Campaign will begin soon with TV and radio commercials.

Apprehensions					In Custody				
	UAC	FMUA	SINGLE	TOTALS		UAC	FMUA	SINGLE	TOTALS
USBP	207	457	781	1445	USBP	420	1505	1555	3480
OFO	62	314	234	610	OFO	90	805	451	1346
Total	269	771	1015	2055	Total	510	2310	2006	4826

GC

Regards,  
Gloria I. Chavez  
Crisis Action Team  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, Wash. D.C.

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

10 SOUTHERN POVERTY LAW CENTER  
Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>62</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 63 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>62</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

The New York Times

<https://nyti.ms/2eCxeK9>

# *Donald Trump Is Elected President in Stunning Repudiation of the Establishment*

By **Matt Flegenheimer** and **Michael Barbaro**

Nov. 9, 2016

EXHIBIT

325

Donald John Trump was elected the 45th president of the United States on Tuesday in a stunning culmination of an explosive, populist and polarizing campaign that took relentless aim at the institutions and long-held ideals of American democracy.

The surprise outcome, defying late polls that showed Hillary Clinton with a modest but persistent edge, threatened convulsions throughout the country and the world, where skeptics had watched with alarm as Mr. Trump's unvarnished overtures to disillusioned voters took hold.

The triumph for Mr. Trump, 70, a real estate developer-turned-reality television star with no government experience, was a powerful rejection of the establishment forces that had assembled against him, from the world of business to government, and the consensus they had forged on everything from trade to immigration.

The results amounted to a repudiation, not only of Mrs. Clinton, but of President Obama, whose legacy is suddenly imperiled. And it was a decisive demonstration of power by a largely overlooked coalition of mostly blue-collar white and working-class voters who felt that the promise of the United States had slipped their grasp amid decades of globalization and multiculturalism.

In Mr. Trump, a thrice-married Manhattanite who lives in a marble-wrapped three-story penthouse apartment on Fifth Avenue, they found an improbable champion.

"The forgotten men and women of our country will be forgotten no longer," Mr. Trump told supporters around 3 a.m. on Wednesday at a rally in New York City, just after Mrs. Clinton called to concede.

In a departure from a blistering campaign in which he repeatedly stoked division, Mr. Trump sought to do something he had conspicuously avoided as a candidate: Appeal for unity.

"Now it's time for America to bind the wounds of division," he said. "It is time for us to come together as one united people. It's time."

That, he added, “is so important to me.”

He offered unusually warm words for Mrs. Clinton, who he has suggested should be in jail, saying she was owed “a major debt of gratitude for her service to our country.”

Bolstered by Mr. Trump’s strong showing, Republicans retained control of the Senate. Only one Republican-controlled seat, in Illinois, fell to Democrats early in the evening. And Senator Richard Burr of North Carolina, a Republican, easily won re-election in a race that had been among the country’s most competitive. A handful of other Republican incumbents facing difficult races were running better than expected.

Mr. Trump’s win — stretching across the battleground states of Florida, North Carolina, Ohio and Pennsylvania — seemed likely to set off financial jitters and immediate unease among international allies, many of which were startled when Mr. Trump in his campaign cast doubt on the necessity of America’s military commitments abroad and its allegiance to international economic partnerships.

From the moment he entered the campaign, with a shocking set of claims that Mexican immigrants were rapists and criminals, Mr. Trump was widely underestimated as a candidate, first by his opponents for the Republican nomination and later by Mrs. Clinton, his Democratic rival. His rise was largely missed by polling organizations and data analysts. And an air of improbability trailed his campaign, to the detriment of those who dismissed his angry message, his improvisational style and his appeal to disillusioned voters.

He suggested remedies that raised questions of constitutionality, like a ban on Muslims entering the United States.

He threatened opponents, promising lawsuits against news organizations that covered him critically and women who accused him of sexual assault. At times, he simply lied.

But Mr. Trump’s unfiltered rallies and unshakable self-regard attracted a zealous following, fusing unsubtle identity politics with an economic populism that often defied party doctrine.

His rallies — furious, entertaining, heavy on name-calling and nationalist overtones — became the nexus of a political movement, with daily promises of sweeping victory, in the election and otherwise, and an insistence that the country’s political machinery was “rigged” against Mr. Trump and those who admired him.

He seemed to embody the success and grandeur that so many of his followers felt was missing from their own lives — and from the country itself. And he scoffed at the poll-driven word-parsing ways of modern politics, calling them a waste of time and money. Instead, he relied on his gut.

At his victory party at the New York Hilton Midtown, where a raucous crowd indulged in a cash bar and wore hats bearing his ubiquitous campaign slogan “Make America Great Again,” voters expressed gratification that their voices had, at last, been heard.

“He was talking to people who weren’t being spoken to,” said Joseph Gravagna, 37, a marketing company owner from Rockland County, N.Y. “That’s how I knew he was going to win.”

For Mrs. Clinton, the defeat signaled an astonishing end to a political dynasty that has colored Democratic politics for a generation. Eight years after losing to President Obama in the Democratic primary — and 16 years after leaving the White House for the United States Senate, as President Bill Clinton exited office — she had seemed positioned to carry on two legacies: her husband’s and the president’s.

Her shocking loss was a devastating turn for the sprawling world of Clinton aides and strategists who believed they had built an electoral machine that would swamp Mr. Trump’s ragtag band of loyal operatives and family members, many of whom had no experience running a national campaign.

On Tuesday night, stricken Clinton aides who believed that Mr. Trump had no mathematical path to victory, anxiously paced the Jacob K. Javits Convention Center as states in which they were confident of victory, like Florida and North Carolina, either fell to Mr. Trump or seemed in danger of tipping his way.

Mrs. Clinton watched the grim results roll in from a suite at the nearby Peninsula Hotel, surrounded by her family, friends and advisers who had the day before celebrated her candidacy with a champagne toast on her campaign plane.

But over and over, Mrs. Clinton’s weaknesses as a candidate were exposed. She failed to excite voters hungry for change. She struggled to build trust with Americans who were baffled by her decision to use a private email server as secretary of state. And she strained to make a persuasive case for herself as a champion of the economically downtrodden after delivering perfunctory paid speeches that earned her millions of dollars.

The returns Tuesday also amounted to a historic rebuke of the Democratic Party from the white blue-collar voters who had formed the party base from the presidency of Franklin D. Roosevelt to Mr. Clinton’s. Yet Mrs. Clinton and her advisers had taken for granted that states like Michigan and Wisconsin would stick with a Democratic nominee, and that she could repeat Mr. Obama’s strategy of mobilizing the party’s ascendant liberal coalition rather than pursuing a more moderate course like her husband did 24 years ago.



But not until these voters were offered a Republican who ran as an unapologetic populist, railing against foreign trade deals and illegal immigration, did they move so drastically away from their ancestral political home.

To the surprise of many on the left, white voters who had helped elect the nation's first black president, appeared more reluctant to line up behind a white woman.

From Pennsylvania to Wisconsin, industrial towns once full of union voters who for decades offered their votes to Democratic presidential candidates, even in the party's lean years, shifted to Mr. Trump's Republican Party. One county in the Mahoning Valley of Ohio, Trumbull, went to Mr. Trump by a six-point margin. Four years ago, Mr. Obama won there by 22 points.

Mrs. Clinton's loss was especially crushing to millions who had cheered her march toward history as, they hoped, the nation's first female president. For supporters, the election often felt like a referendum on gender progress: an opportunity to elevate a woman to the nation's top job and to repudiate a man whose remarkably boorish behavior toward women had assumed center stage during much of the campaign.

Mr. Trump boasted, in a 2005 video released last month, about using his public profile to commit sexual assault. He suggested that female political rivals lacked a presidential "look." He ranked women on a scale of one to 10, even holding forth on the desirability of his own daughter — the kind of throwback male behavior that many in the country assumed would disqualify a candidate for high office.

On Tuesday, the public's verdict was rendered.

Uncertainty abounds as Mr. Trump prepares to take office. His campaign featured a shape-shifting list of policy proposals, often seeming to change hour to hour. His staff was in constant turmoil, with Mr. Trump's children serving critical campaign roles and a rotating cast of advisers alternately seeking access to Mr. Trump's ear, losing it and, often, regaining it, depending on the day.

Even Mr. Trump's full embrace of the Republican Party came exceedingly late in life, leaving members of both parties unsure about what he truly believes. He has donated heavily to both parties and has long described his politics as the transactional reality of a businessman.

Mr. Trump's dozens of business entanglements — many of them in foreign countries — will follow him into the Oval Office, raising questions about potential conflicts of interest. His refusal to release his tax returns, and his acknowledgment that he did not pay federal income taxes for years, has left the American people with considerable gaps in their understanding of the financial dealings.



But this they do know: Mr. Trump will thoroughly reimagine the tone, standards and expectations of the presidency, molding it in his own self-aggrandizing image.

He is set to take the oath of office on Jan. 20.

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>1</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26  
27  
28

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 67 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

**From:** MCALEENAN, KEVIN K  
**Sent:** Friday, November 11, 2016 2:50 PM  
**To:** Owen, Todd C (AC OFO); WAGNER, JOHN P  
**Subject:** FW: Metering FMUAs at the TX CBP POEs

Beverly said on our call just now that you were going to talk about this next week at your conference. Hence my other note.

I would like to attend your next one, by the way.

---

**From:** CHAVEZ, GLORIA I  
**Sent:** Friday, November 11, 2016 2:44:25 PM  
**To:** MCALEENAN, KEVIN K  
**Subject:** FW: Metering FMUAs at the TX CBP POEs

Deputy - FYSA - I sent this guidance yesterday to them and spoke with Beverly about it as well.

GC

Gloria I. Chavez  
Deputy Chief - Law Enforcement Operations  
U.S. Border Patrol Headquarters  
Washington D.C.  
[REDACTED]

---

**From:** CHAVEZ, GLORIA I  
**Sent:** Thursday, November 10, 2016 2:48:49 PM  
**To:** GOOD, BEVERLY  
**Cc:** TAMAYO, ENRIQUE S; FLANAGAN, PATRICK S  
**Subject:** Metering FMUAs at the TX CBP POEs

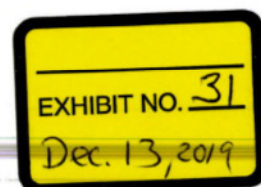
Beverly - One other topic that C2 discussed at the NAC meeting today was the ability to meter the flow of FMUAs at the POE bridges (at the middle of the bridge) at some of our Texas POEs to prevent the overflow at the actual POEs. For example, placing a couple of CBPOs at the international boundary line (middle of the bridge) to manage the flow of arriving FMUAs at the POE. The proposal was focused towards the family units from Central America; the exception being Mexican FMUAs claiming credible fear of course. All other legitimate pedestrian traffic would be okay to pass through and not be held up.

I just received word from Commissioner's staff that this proposal that C2 introduced to S1 for consideration earlier today was approved by S1 and to make notification to OFO. So please proceed with informing your OFO field leadership at some of our Texas POEs of this approval so they can start this new operational alignment to bring relief at the POEs. Also, at the local level there are valuable partnerships with our Mexican counterparts, so if possible, it would be great if OFO field leadership at those affected locations inform their Mexican counterparts of their intent.

Let me know if you have any questions.

Thank you!  
GC

Regards,  
Gloria I. Chavez  
Crisis Action Team  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, Wash. D.C.  
[REDACTED]



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>1</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26  
27  
28

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 71 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



Case 3:17-cv-02366-BAS-KSC Document 767-39 Filed 09/30/21 PageID.67234 Page 3 of 4

**From:** AGOSTTINI, JOE  
**Sent:** Friday, November 18, 2016 7:43 PM  
**To:** GONZALEZ, CARLOS L; BROOKS, WILLIAM K  
**CC:** HUMPHRIES, MICHAEL W  
**Subject:** Consolidated Weekly highlights

Perfect, I am glad DHS and HQ is involved and working with the Embassy in D.C.

We will make our adjustments here locally to make it successful and easier for everyone.

Enjoy the weekend.

Joe

---

**From:** GONZALEZ, CARLOS L  
**Sent:** Friday, November 18, 2016 5:28 PM

**Subject:** RE: Consolidated Weekly highlights

Joe,

We are working the bus issue through the repatriation workgroup in DC. DHS is now involved with the Mexican embassy in DC.

INM is back to the drawing board on how to assist us meter migrants. As you may already know, we (CBP) announced to GOM two days ago that our ports will be pushing migrants without entry documents back to Mexico to await an appointment to be processed at the POEs. These self-metered measures began in El Paso already.

From my understanding, the concept pretty much involves placing CBP personnel at the international line to screen legitimate passengers with entry documents and allowing them into the processing areas while asking those that do not have documents and that may otherwise be seeking some sort of benefit to return to Mexico with a date and time issued by our personnel.

I defer to Will for guidance on how Nogales should handle this but highly recommend we push back (self-meter).

Carlos

Carlos L. Gonzalez  
Attaché  
Customs and Border Protection  
U.S. Embassy, Mexico City



---

**From:** AGOSTTINI, JOE  
**Sent:** Friday, November 18, 2016 6:09 PM

**Subject:** RE: Consolidated Weekly highlights

The Local Sub Delgado and Delgado for Sonora give us limited assistance as it relates to the influx of Haitians and Central Americans.

INM in San Luis will no longer be processing or metering Haitians, I am sure they will be coming our way soon.

Also, INM is straying away from participating in helping us with the move of repatriation buses from ERO/USBP from the DeConcini to the Mariposa POE.



Case 3:17-cv-02366-BAS-KSC Document 767-39 Filed 09/30/21 PageID.67235 Page 4 of 4

This move is inevitable as GSA engineers report that the outbound lanes infrastructure is extremely weak to support more than 20,000 pounds of weight from these buses; they will be repairing the outbound lanes at the DeConcini POE at the end of January, beginning of February.

We have already met with the commercial bus companies to advise them of this move, they understand.

Joe

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>75</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 76 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>75</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1 CENTER FOR CONSTITUTIONAL RIGHTS

2 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

3 *bazmy@ccrjustice.org*

4 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

5 *gschwarz@ccrjustice.org*

6 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

7 *aguisado@ccrjustice.org*

8 666 Broadway, 7th Floor

9 New York, NY 10012

10 Telephone: +1.212.614.6464

11 Facsimile: +1.212.614.6499

12 SOUTHERN POVERTY LAW CENTER

13 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

14 *sarah.rich@splcenter.org*

15 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

16 *rebecca.cassler@splcenter.org*

17 150 E. Ponce de Leon Ave., Suite 340

18 Decatur, GA 30030

19 Telephone: +1.404.521.6700

20 Facsimile: +1.404.221.5857

21 AMERICAN IMMIGRATION COUNCIL

22 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

23 *kwalters@immcouncil.org*

24 1331 G St. NW, Suite 200

25 Washington, D.C. 20005

26 Telephone: +1.202.507.7523

27 Facsimile: +1.202.742.5619

**Tony Reardon**

---

**From:** ATKINSON, DAVID <DAVID.ATKINSON@CBP.DHS.GOV>  
**Sent:** Tuesday, March 19, 2019 4:35 PM  
**To:** Tony Reardon; CADRIEL, DONALD H; GUERRA, RICARDO; FLORES, MIGUEL M; MUNOZ, RICARDO; VEGA, FRANCISCO; MONAHAN, JOHN F  
**Subject:** FW: Safety Alert/Rule Clarification.  
**Attachments:** Asylees 3192019.pdf

Fyi

**From:** ATKINSON, DAVID  
**Sent:** Tuesday, March 19, 2019 2:55 PM  
**To:** MCALEENAN, KEVIN K <KEVIN.K.MCALEENAN@cbp.dhs.gov>  
**Cc:** HARALSON, WILLIAM T <WILLIAM.T.HARALSON@cbp.dhs.gov>; IGLESIA5-JR, ROMUALDO <romualdo.iglesias-jr@cbp.dhs.gov>  
**Subject:** Safety Alert/Rule Clarification.

Mr. Commissioner,

1<sup>st</sup>, The Port of Hidalgo, Texas employees would like a written order provided to them that mirrors their instructions to return individuals who enter the U.S. and request asylum back to Mexico without appointment or system for a future appointment. The Agency is allowing the Mexican officials to create a list and detention area mid bridge to facilitate who would be next to enter the United States from that detention site on the Mexican side, which is under the control and direction of CBP Officers on the U.S. side.

The employees would like you to provide them the proper authority and sections of law that allows them to detain these asylum seekers on the Mexican side, and prevent them from entering the U.S. after presenting themselves for inspection and requesting asylum. The Employees would like something in writing to protect their ordered activities, as the Agency is claiming publicly that they are not conducting these activities when they really are.

2<sup>nd</sup>, the employees are placed at the middle of the bridge out of line of sight of other CBP Staff and outnumbered by the asylum seekers and the possible smugglers who are attempting to enter the U.S. by foot and/or by vehicle. The employees request your intervention in this matter to ensure that they are not injured or killed as Port management is incompetent in assigning the proper amount of or stationing these officers in a safe position. Recently we have had several officers placed in a position of disadvantage without any instant reinforcements as only three are assigned away from the immediate site from all port staff. On one occurrence, an innocent vehicular driver was placed in harm's way of a struggle between a CBP officer and asylum seeker. The driver struck the Officer's holster, mere centimeters away from hitting the body of the Officer and causing grave harm or even death. Furthermore, there are routinely only 3-4 Officers assigned to the Passport Control processing area, thus delaying the wait time of the asylum seekers upwards of three weeks. Again, for this reason along with the others mentioned above, we request your immediate intervention in the matter.

3<sup>rd</sup> the local U.S. Border Patrol is doing a poor job in picking up the asylum seekers that have already been processed.

It is surprising that local management would stage such a detention area at the middle of the bridge putting the asylum seekers and employees in pest infected areas known to be susceptible to gunshots. As of yesterday, the standing order by Supervisor Lauro Hinojosa, was not to allow any asylum seekers into the U.S. until the Mexican authorities call them up by a list of which they maintain control. They are to be sent back into Mexico, and not allowed to enter for the U.S. for processing.

We respectfully await your immediate response.

David Atkinson, Local President NTEU Chapter 149,



CBP and Mexican detention site, where asylum seekers are returned to Mexico to wait without notice by CBP Officers. As per local management, asylum seekers are not to enter, and detained at the middle of the bridge until they are called up by Mexican Officials to enter. CBP calls Mexican officials and they dictate who enters. The problem with this is that CBP has no control who enters, and at times, as per the interviewing CBP Officers, the people selected are the ones that have cash to bribe Mexican Officials. Also, as substantiated by the interviewing CBP Officers that claim that the Port runners are informing them that the Mexican Officials, for the right price (500), are allowed to run the Northside of the bridge.





Cannot see the 2 officers one quarter on top of the bridge. The problem is, when the lanes get filled up during peak times, the officers completely vanish into the surrounding vehicles who park in line right after them.



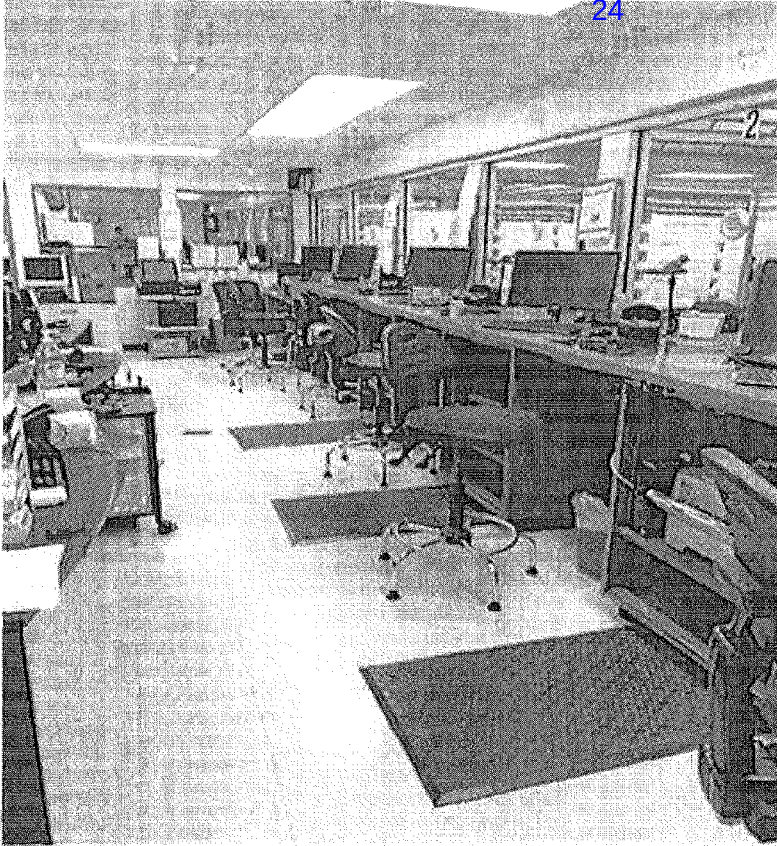
quarter on top of the bridge / cannot see bridge employees or primary booths for back-up.





Chairs reduced to minimize the amount of persons held in the seating area leaving a huge blank space.





No officers stationed to process work at 10-11pm, and only 4 employees to process the family unit creditable fear cases.

**CBP Officers**










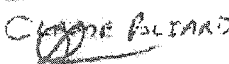





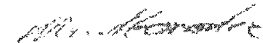








U.S. Customs and Border Protection  
U.S. Port of Hidalgo, Texas

March 6, 2019

To: Whom it may Concern:

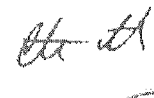
We CBP Officers assigned the Port of Hidalgo, Texas have been ordered by CBP Supervisors to inspect persons seeking/requesting asylum status near the middle of the United States/Mexico Bridge in Hidalgo, Texas on the United States side. We are posted mere feet into the U.S. from the US/Mexico borderline and are intercepting and immediately preventing asyises who request asylum from entering the United States. After their immediate request, we are instantly sending them back into Mexico without a date, time or appointment to be allowed into the United States for processing. We are not aware of any process used to inform these asylum seekers to return to the Port for processing into the U.S. and feel there is a need for clarification for the authority or law allowing us to immediately deny entry to these asylum seekers into the United States and returning them back into Mexico. Therefore, we are requesting the person of authority or section of law that grants us the power to act as ordered and mentioned above.

Respectfully Submitted: CBP Officers Signed below:

Ramona Brisas		Manuel Hernandez	
Danielle Vazquez		Laura L. Gonzalez	
Jose Martinez		Manita E. Davila	
Abraham Gutierrez		Fior Guerrero	
Patricia Lopez		Clayton Boland	
Robert Ayala		Daniel Longoria	
Gabriel Ortiz		Eduardo Amante	
		Ornelas, Juan	
Israel Noguez		I. Salinas	
Leonardo Cantu		R. Castillo	
Federico Martinez		R. Torres Gonzalez	
Victoria Puentes			

NTEU - 000115


Juan Garcia 

Christian Castaneda 

Andrea Lopez 

Paul Saiz Cortes

Marcos Gonzalez 


Oscar Molinari 

Abigail Lugo 


JESUS FLORES 

Amanda Benavides

Javier Rodriguez 


Julian Soto 

Roberto Chayon 

Ruben R. Bantello 

Gloria S. Chante 


Robert Rojas 

Martin Gomez 

Nidia Gao



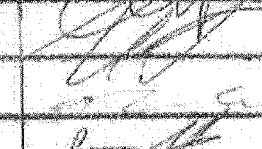
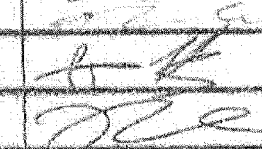


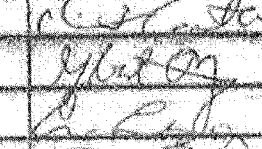



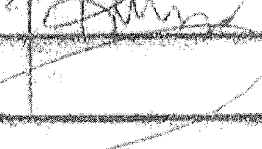






Chris Ramirez 

Lamiro Reyna Jr. 

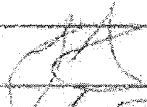






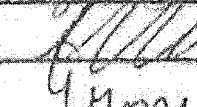














 Jesus Gonzalez



PORT	PRINT NAME	SIGN	DATE
2305	L. GARCIA		9/25/18
2305	E. Rios		9/25/18
2305	M. Fuentes		9/25/18
2305	V. Leno		9/25/18
2305	C. Rodriguez		9-25-18
2305	M. ORTIZ		9/25/18
2305	B. Ramirez		09/25/2018
2305	L. Rodriguez		9/25/18
2305	C. CASTRO		9/25/18
2305	G. Diaz		9/25/18
2305	A. Lugo		9/25/18
2305	P. Rodriguez		9/25/18
2305	P. Rojas		9/25/18
2305	S. Cortes		9/25/18
2305	J. Garcia		9/25/18
2305	M. Rodriguez		9/25/18
2305	A. OROZCO		9/25/18
2305	J. Flores		9/25/18
2305	G. Leal		9/25/18
2305	R. Hernandez		9/25/18
2305	A. GARCIA		9/25/18

NTEU - 000117

	Joaquín Longoria
	José Peña
	Eli Canales
	Romma Iglesias
	Michael Rodriguez
	Saing Cortes
	Cristina Garcia
	Pedro Gallo
	Linville Vinyard
	Andres Rojas
	Alvaro Gomez
	Reynaldo Torres Gancedo
	Albert Munoz
	Roberto Gonzalez
	Juan Gonzalez
	Omar Lopez
	Oscar Molon
	Contreras
	Rolando RAMON
	Eduardo Costa
	Manuel Hernandez

Juan Shuenks	
Jesus Salinas	
Oziel Conde	
Jose A. RIVERA	
I. GARCIA, DOMINGUEZ	
Noble Ron	
DAVID BOTUYO	
Jesus Marrero	
Ignacio L. Tijerina, Jr.	
Rodriguez	
Charles M. W.	
Rodriguez	
JOSE R. LEAL	
Juan Esparza	
Carlos Casares	
Francisco Urbina	
Mariela Trevino	
Carlos Mendez	
Mark Latin	
Jesus Gonzalez	
Jose LEAL	
Jose LEAL	

M.V.	Aldo Vada
E. CASAS	
Alfonso Arango Q	
L. RINOLA	
José Luis	

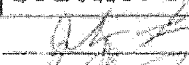
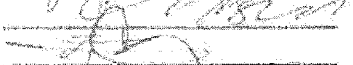











NAMES	
1	LUCIO JULIAN
2	BALLI CHARLES
3	CIFUENTES JORGE
4	LOPEZ AZAEL
5	GONZALEZ ENRIQUE
6	THOMAS BRITTANY
7	GUAJARDO ADAN
8	RODRIGUEZ RODRIGO
9	GARCIA MARTIN
10	IBARRA JESSICA
11	ELVIRA ESQUIVO

12. David Longoria

13. Mario Bazaldua

14.


SIGNATURES	
	
	
	
	
	
	
	
	
	
	
	



[illegible]

NTEU - 000122

NTEU - 000123

- Bobby Gomez  
1) CLAUDE POLIARD  
Javier Rodriguez  
SAL SANCHEZ  
1) Jesus Saez  
Cristal Ramirez  
1) Graciela M. M. M.  
1) Oscar Molano  
1) Amanda Benavides  
1) Ricardo Casas JR.  
1) Andrea Lopez  
1) Raquel Rodriguez  
1) Manuel Enjilva  
1) Abraham Peña  
1) Victoria Casas  
1) Claudia Gonzalez  
1) Ainei Roldado  
1) Ilse M. M.  
1)   
1) Ismael Noguez  
1) SAMUEL S. ESCAMILLA  
2) Manuel Gonzalez  
3) Christina Castro  
4) Abaniz Rodriguez  
5) JOAQUIN CHAVEZ  
6)  
7)  
8)

- 1) [Signature]
- 2) [Signature]
- 3) Gabriel Garcia
- 4) [Signature]
- 5) Adrian [Signature]
- 6) Mario Godinez
7. Roger Madrid
8. RL RA
9. Heber Trejo
10. S. [Signature]

NTEU - 000125

NTEU - 000126



**U.S. CUSTOMS AND BORDER PROTECTION**  
**Department of Homeland Security**

*Memorandum*

March 4, 2019

MEMORANDUM FOR: SCBPO Jorge Rodriguez

FROM: Customs and Border Protection Officer Ismael Noguez

SUBJECT: Northbound primary incident

On March 4, 2019 at approximately 1320 hours CBPO Ismael Noguez was instructed to shut down vehicle lane 11 by the duty shift supervisor at the Hidalgo Texas Port of Entry. CBPO Noguez along with CBPO Eli Canales walked to the top of the bridge to close lane 11. While CBPO Noguez was up at the top of the bridge a driver of the GUZMAN bus line informed CBPO Noguez and CBPO Canales that there were several people running northbound along the Senti lane. CBPO Noguez and CBPO Canales walk towards the Senti lane where the lane turns to the right at the top of the hill. CBPO Noguez was positioned towards the bottom of the hill because he was closing lane 11. There was drizzle and the pavement was wet causing a slippery surface.

CBPO Noguez immediately observed a group of approximately 9 individuals approaching him. In his officer experience at the Hidalgo Port of Entry it is not uncommon to see large groups of people running north bound via the vehicle lanes and primary booths in an attempt to enter. CBPO Noguez immediately observed he was outnumbered. CBPO Noguez put his hands out and instructed them to stop and not to run in English and Spanish. Immediately a male walks from around the group and starts walking towards CBPO Ismael Noguez in a fast manner closing the distance quickly. CBPO Ismael Noguez again give him instructions to stop. CBPO Ismael Noguez was positioned downhill of the group as the man approached CBPO Ismael Noguez. CBPO Ismael Noguez again put his left hand out and signaled the man to stop. The man did not obey the command and continued to approach CBPO Ismael Noguez quickly. The individual did not obey the command and immediately came into contact with CBPO Ismael Noguez thus assaulting CBPO Ismael Noguez by pushing thru his arm and hand. This caused CBPO Ismael Noguez to be pushed down hill momentarily until he regained his balance.

CBPO Ismael Noguez attempted to gain control of the male by grabbing one arm and positioning his body against the fence. The male resisted by swinging around to confront CBPO Ismael Noguez. When the man turned towards CBPO Ismael Noguez he assaulted him again by striking CBPO Noguez in the face with his left arm. CBPO Ismael Noguez attempted to gain full

NTEU - 000127



control of his arms but the male then again pushed him in an attempt to run thru him. CBPO Ismael Noguez instructed the male to put his hands behind his back but he failed to obey commands and instead continued to resist any attempt to gain control of his hands.

CBPO Eli Canales and CBPO Ismael Noguez then tackled the man to the ground in an attempt to gain control of the male. Once on the ground the male curled up and would not give access to his hands to be secured after he was given commands in Spanish. As this happened CBPO Ismael Noguez observed the rest of the group run northbound towards the primary booths. The man attempted to head butt CBPO Eli Canales as he tried to gain control of his arm and hands. Moments later another group of approximately 4 people approached the area where CBPO Ismael Noguez and CBPO Eli Canales were trying to restrain the individual. The group was instructed to stop by CBPO Ismael Noguez but they did not stop and eventually continued running northbound.

CBPO Ismael Noguez positioned his right knee on top of the male's back to secure the movement of his head to the ground while he attempted to gain control of his hands. The man clenched his arms together and would not obey commands to place his hands behind his back. The male actively resisted even when he was on the ground and at no point did he obey the command to stop resisting.

The male was secured in handcuffs and the hand cuffs were checked for tightness and were double locked. An immediate pat down was also performed with negative findings. The subject was escorted down the bridge to vehicle secondary for further processing.

The male was later identified as Herherth Asdrubal Soriano Torres (October 22, 1987), nationality of El Salvador. I reserve the right to make any future modifications to this document at any time hereafter.

ATKINSON, DAVID

---

From: REYNA JR, RAMIRO  
Sent: Monday, March 18, 2019 1:38 PM  
To: ATKINSON, DAVID; HARALSON, WILLIAM T  
Subject: (S/OP) Commitment Incident 03/17/2019  
Attachments: S-OP Incident Memo.doc

Atkinson/Haralson,

Attached is the memo provided to SCBPO M. Solis about the incident.

**U.S. CUSTOMS AND BORDER PROTECTION**  
**Department of Homeland Security**

*Memorandum*

DATE: March 17, 2019  
 TO: File  
 FROM: Ramiro Reyna Jr.  
 U.S. Customs and Border Protection Officer

On March 17, 2019 I Customs and Border Protection Officer Ramiro Reyna Jr. was assigned to work 0800-1600 HB1A at the Hidalgo, TX. Port of Entry. Between the times of 1200-1600 I Customs and Border Protection Officer Efrain Gonzalez were assigned to commitment (S/OP) as our first time ever covering this commitment CBPO Gonzalez and I were briefed by Customs and Border Protection Jaime Vidal that we were to stand on the bridge or sit inside the unit looking for anyone attempting walk/run down the bridge. At approximately 1552 hours CBPO Gonzalez and I visually saw an adult male carrying a minor male later identified as Adult Subject Rodriguez, Juan Carlos DOB: 02/27/1995 A: 201451668 and Minor Male Subject Rodriguez Lara, Oliver Adolfo DOB: 05/14/2014 A: 201451669 walking on the bridge. Subject Rodriguez was spotted walking in and out of different vehicle lanes, at one point he also stayed behind a bus acting in a way as if he was attempting to hide from CBPO's. When subject Rodriguez approach the mid line Mexico/USA and asked to come in, CBPO Gonzalez and I asked for proper documentation for proper travel into the USA in which subject stated he nor his son have any documents to enter the USA. CBPO Gonzalez then informed subject that we would be able to help though would have to turn back around and enter the pedestrian side of the bridge for assistance. Subject Rodriguez turned around, walked back approximately 10 yards then turned around and ran in full speed towards the Senti lane into the USA all while carrying his minor son. I quickly without hesitation ran towards the subject and grabbed him by his jacket, at the same time while this was occurring cars were traveling down the Senti lane at approximately 15-25 miles per hour. Through the momentum of running and grabbing the subject Rodriguez a 2011 Hyundai Tucson TX CX4T294 driver Lopez, David DOB: 10/02/1978 USC that was traveling down the Senti lane hit the right side of my body the driver door in which my duty issued pistol holster dented/scratched the door of the vehicle. The subject driving the vehicle immediately stopped as I and subject Rodriguez fell in front of the vehicle. I quickly got on top of subject while he was on a prone position, pinned his heel towards his lower back to gain control of the situation. Subject was placed in double lock issued handcuffs and an immediate paldown was conducted for any weapons. While this occurred CBPO Gonzalez and Security Narvaez had control of the minor male, being held by a hand. Subject was then escorted to passport hard secondary for further processing. The vehicle and driver involved asked to speak to a supervisor in regards to the damages on the vehicle. Driver Lopez later spoke with Supervisory and Customs and Border Protection Officer Marco Solis who informed and provided the driver with the TORT claim process. While in the process of detaining subject Rodriguez I cut and

*Vigilance ★ Service ★ Integrity*

NTEU - 000130

**U.S. CUSTOMS AND BORDER PROTECTION**  
**Department of Homeland Security**

*Memorandum*

scrapped my right knuckles which caused it to bleed, my knee and right shoulder felt soar as well. SCBPO M. Solis was advised of the injury.

*Vigilance ★ Service ★ Integrity*

NTEU - 000131

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>78</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 79 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>78</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

CENTER FOR CONSTITUTIONAL RIGHTS

Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

*bazmy@ccrjustice.org*

Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

*gschwarz@ccrjustice.org*

Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

*aguisado@ccrjustice.org*

666 Broadway, 7th Floor

New York, NY 10012

Telephone: +1.212.614.6464

Facsimile: +1.212.614.6499

SOUTHERN POVERTY LAW CENTER

Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

*sarah.rich@splcenter.org*

Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

*rebecca.cassler@splcenter.org*

150 E. Ponce de Leon Ave., Suite 340

Decatur, GA 30030

Telephone: +1.404.521.6700

Facsimile: +1.404.221.5857

AMERICAN IMMIGRATION COUNCIL

Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

*kwalters@immcouncil.org*

1331 G St. NW, Suite 200

Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



**Walter Dresslar**

---

**From:** HARALSON, WILLIAM T <WILLIAM.T.HARALSON@cbp.dhs.gov>  
**Sent:** Wednesday, April 12, 2017 12:09 PM  
**To:** Walter Dresslar  
**Cc:** ATKINSON, DAVID; CLOUGH, ERIC; PONCE, EDUARDO H  
**Subject:** Arbitration Invocation Request (Failure to Process Asylum/Credible Fear Seekers HID 2017)  
**Attachments:** FailureToProcessAsylumERCFseekersHID2017.pdf

Mr. Dresslar,

Chapter 149 would like to invoke the attached grievance into arbitration as the Agency has continuously failed to properly process asylum and/or credible fear seekers at the Ports of Hidalgo, Texas. Aliens seeking

The Agency's Step 3 response was received on March 31st, 2017 and thirty (30) days from then would be April 30th, 2017 (last day to invoke). A hard copy of this grievance will be sent to you later today.

I will call you to discuss the details of this grievance and the evidence we have of the Agency's violation as well as any additional information you will require to invoke this grievance into arbitration.

Respectfully,

**William T. Haralson**  
**NTEU Representative**  
**NTEU Chapter 149**  
**956-843-5749 Union Office**  
**956-239-2747 Cell**





Chapter 149 Hidalgo, Texas

January 19, 2017

**Mr. Carlos J. Gonzalez**  
9901 South Cage Blvd  
Pharr, Texas 78577  
956-227-7168  
9562832060  
carlos.javier.gonzalez.cbp.dhs.gov

Dear Sir,

Pursuant to the current National CBP/NTEU National Bargaining Agreement (NBCA), the Union is requesting a Step 1 grievance meeting with the Agency concerning:

(Article 2- Section 1) The Agency's failure to exercise the referenced authorities or discretion fairly and consistently so as to avoid adverse impact to the employee's working conditions, responsibilities, integrity and credibility with the position they hold with the US Government.

(Article 33- Sections 1 and 4A) The Agency also failed to initiate prompt and appropriate action to correct unsafe conditions whenever they are found to exist and raised. In which the Agency is required to make every reasonable effort, consistent with the mission of the Service and the inherent hazards of the work to be performed, to provide and maintain safe and healthful working conditions when and where it is within its authority and control to do so.

(Article 3- Section 3, Article 31- Section 4A and B) Therefore, the Agency officials failed to conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day to day working relationships when, (Article 26-Section 3.A) the Agency unilaterally implemented without notice changes in operational or administrative procedures or of any new initiative affecting an employee's working conditions, lawful orders; by acting in the following capricious and malicious manner:

**Brief Summary:**

Since, on or about 12/6/2016 and in a continuing manner, the Agency has unilaterally implemented a policy that prevents and/or blocks CBP Officers (pedestrian primary/secondary) from processing political asylum seekers and assessing their possible persecution or torture, and their potential

NTEU - 000142

national security and/or terrorist threats to the United States. To include, recording asylum seeker's contact with CBP Officers at the Hidalgo, Ports of Entry while physically presenting themselves for inspection. CBP Directive 3320-002A, CBP Directive 3340-040A, current Immigration and Nationality Act (INA).

**Example, but not limited to:** CBPO Josh Garza referred Other Than Mexican (OTM) Asylum seekers during his 6am to 8am overtime assignment on 12/31/2016 while working with CBPO David Atkinson. CBP Supervisor Marco Solis and Private Security Guards (LARA) escorted the referred asylum seekers back to Mexico without secondary system screening or evaluation (direct radio communication) PCS employees stated that this was the running order from management for OTM asylum seekers. CBP Supervisor Marco Solis and other Agency representatives informed CBPO David Atkinson with witnesses (Clough, Garza) that the Agency was not processing OTMs for asylum purposes and that they are to be returned to Mexico, or call the supervisor and they would escort them out of the building, that they are not being referred for processing, just metered reports internally for numbers.

In ladder, this also includes the following:

3] Reducing the safety environment for employees at the passenger and secondary sites by not evaluating or screening persons who are Other Than Mexicans (OTM) seeking political asylum (e.g., but not limited to Africans, El Salvadorians...) as lawfully mandated and past practiced. Private Security Guards are instructed by the Agency to stop certain asylum seekers from entering the building, have them call a CBP Supervisor and; both Supervisors and security guards deny entry and processing and escort them back to the path to Mexico.

4] Continuation of preventing/ blocking CBP Officers from referring all asylum seekers into secondary for evaluation and processing. As officers are order by Agency officials to transport and transfer certain asylum seekers (OTM's) from one city (Pharr, Texas) to another (Hidalgo, Texas) without screening and having them directly forced back into Mexico without the following checks: health or national security and/or terrorist threats. (12/6/2016-CBP Supervisors Marco Solis, Efraim Gonzalez, Ismael Hernandez; CBP Officer's Jessica Ibarra, Abraham Pena, Sylvia Guerra and Eric Clough). 8 USC 1158(a)(1), 8 USC 1225(b)(1)(A)(ii), 8 USC 235(B).

5] Failing to provide health screening or hazard plans for employees who come in contact with overnight ill or non-ill asylum seekers in the PCS areas. In fact, certain asylum seekers are told by Agency officials (Uribe) not to disclose their illnesses to any person, as they would be returned to their country. This in turn creates and unsanitary and unhealthy working environment for employees in the passenger secondary rotational sites, as the PCS areas have a continuous strong odor of human waste lingering in the air.

6] Implementation of a policy and procedure that places officers in jeopardy of violating federal law, rules and regulations pertaining to asylum seekers; which threatens a CBP Officer's employment, credibility and integrity with the US Government.

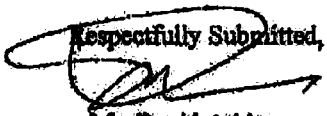
7] Asylum seekers were emotional traumatized, employees were stressed out by the practices placed by the agency.

**Remedy:**

The Union is requesting that all employees that were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrong doing as mandated by the NCBA. The Union requests that health checks be completed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, law, rule and regulations. Additional Cleaning of inspectional sites, back pay for all work conducted by Private Security Officers that would have otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. All attorney fees and all other remedies deemed appropriate by a third party.

Please provide a proposed meeting date for this meeting by email. Please respond electronically at [david.atkinson@cbp.dhs.gov](mailto:david.atkinson@cbp.dhs.gov) and for any additional information concerning this matter. You may also reach me at 956-227-2222.

Respectfully Submitted,

  
Mr. David Atkinson  
President- NTEU Chapter 149  
Hidalgo, Texas.

NTEU - 000144



Chapter 149

Hidalgo, Texas

February 21, 2017

Mr. Javier Cantu  
U.S. Customs and Border Protection  
Hidalgo, Texas

**Step 2 Grievance (Failure to Process ER/CP & Asylum Seekers HID 2017)**

Mr. Cantu,

**Due to the Agency's failure to respond to this issue at the Step 1 grievance level. The Union hereby requests an Article 27, Section 12.B-Step 2 Grievance meeting with you pursuant to the Current CBP/NTEU National Collective Bargaining Agreement (NCBA) regarding all issues raised in the CBP Form 280 and its attachments.**

Please provide me with a proposed date and time to meet concerning this matter.

Respectfully Submitted,



A handwritten signature in dark ink, appearing to read "W. T. Haralson".

Mr. William T. Haralson  
NTEU Representative  
Chapter 149- Hidalgo, Texas

NTEU - 000145

DEPARTMENT OF HOMELAND SECURITY  
U.S. Customs and Border Protection  
National Treasury Employees Union

## GRIEVANCE FORM

1A. GRIEVANCE NUMBER Failure to Process ER/CF & Asylum HID 2017		1B. DATE FILED 2/21/2017
2. Filer (EMPLOYEE NAME(S) OR UNION CHAPTER) William T. Haralson/NTEU Chapter 149		3. EMPLOYEE POSITION AND WORK STATION CBP Officers/Ports of Hidalgo, Texas
4. EMPLOYEE'S IMMEDIATE SUPERVISOR (NAME) Acting Port Director Javier Cantu/ Chief SCBPO Carlos Gonzalez		
5. EMPLOYEE'S REPRESENTATIVE (CHECK ONE) <input type="checkbox"/> SELF <input checked="" type="checkbox"/> UNION (COMPLETE 6A & 6B)		6A. NAME OF UNION REPRESENTATIVE William T. Haralson 6B. UNION REP. TELEPHONE NUMBER 956-227-2222
6A. SPECIFIC ARTICLE(S) OR SECTION(S) OF THE AGREEMENT ALLEGED TO HAVE BEEN VIOLATED; SECTIONS OF APPLICABLE LAW OR REGULATION ALLEGED TO HAVE BEEN VIOLATED; OR THE SPECIFIC NATURE OF THE CONDITION EMPLOYMENT IN DISPUTE. All Articles and Sections of the National CBP/NTEU Agreement dated May 11, 2011 (NCBA) and the following articles and sections; ARTICLE 2-Section 1; ARTICLE 3-Section 3; ARTICLE 7-Sections H and I; ARTICLE 26-Section 10; ARTICLE 31-Sections 4.A and 4.B; ARTICLE 33-Sections 1 and 4.A; ARTICLE 35-All; ARTICLE 35-Section G.2; ARTICLE 37-All; ARTICLE 37-Sections 1, 3 and 5; 19 USC 267; 19 USC 261; 19 USC 1451 (1011/1944 Overtime), as amended; Federal Employees Pay Act of 1945 (FEPA), as amended; CBP Directive 3320-002A; CBP Directive 3340-040A; 5 USC 7116(a) 1,6,7 and 8; Current Immigration and Nationality Act (INA); 8 USC 1158(a)(1); 8 USC 1226(b)(1)(A)(ii); 8 USC 235 (B).		
6B. IF ALLEGATION OF AN UNFAIR LABOR PRACTICE, INDICATE SPECIFIC SECTIONS OF 5 USC 7116(b) THAT HAVE BEEN VIOLATED BY CHECKING APPLICABLE BOX(S). IT IS AN UNFAIR LABOR PRACTICE FOR THE AGENCY TO:		
<input checked="" type="checkbox"/> (1) TO INTERFERE WITH, RESTRAIN OR COERCE ANY EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT UNDER THIS CHAPTER; <input type="checkbox"/> (2) TO ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY LABOR ORGANIZATION BY DISCRIMINATION IN CONNECTION WITH HIRING, TENURE, PROMOTION, OR OTHER CONDITIONS OF EMPLOYMENT; <input type="checkbox"/> (3) TO SPONSOR, CONTROL OR OTHERWISE ASSIST ANY LABOR ORGANIZATION, OTHER THAN TO FURNISH, UPON REQUEST, CUSTOMARY AND ROUTINE SERVICE AND FACILITIES IF THE SERVICES AND FACILITIES ARE ALSO FURNISH ON AN IMPARTIAL BASIS TO OTHER LABOR ORGANIZATIONS HAVING EQUIVALENT STATUS; <input type="checkbox"/> (4) TO DISCIPLINE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS FILED A COMPLAINT, AFFIDAVIT, OR PETITION, OR HAS GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS CHAPTER; <input checked="" type="checkbox"/> (5) TO REFUSE TO CONSULT OR NEGOTIATE IN GOOD FAITH WITH A LABOR ORGANIZATION AS REQUIRED BY THIS CHAPTER; <input type="checkbox"/> (6) TO FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES AND IMPASSE DECISIONS AS REQUIRED BY THIS CHAPTER; <input checked="" type="checkbox"/> (7) TO ENFORCE ANY RULE OR REGULATION (OTHER THAN A RULE OR REGULATION IMPLEMENTING SECTION 2302 OF THIS TITLE) WHICH IS IN CONFLICT WITH ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT IF THE AGREEMENT WAS IN EFFECT BEFORE THE DATE THE RULE OR REGULATION WAS PRESCRIBED; OR <input checked="" type="checkbox"/> (8) TO OTHERWISE FAIL OR REFUSE TO COMPLY WITH ANY PROVISION OF THIS CHAPTER.		
6C. PROHIBITED PERSONNEL PRACTICE (SEE ARTICLE 7, SEC. 2 OF THE NATIONAL AGREEMENT) 5 USC 7116(a) 1,6,7,8.		
7. STATEMENT OF THE CIRCUMSTANCES GIVING RISE TO THE GRIEVANCE (PROVIDE NATURE OF THE INCIDENT, PERSONS INVOLVED, TIME, DATE, PLACE, ETC.)  See Attachments A and B		
8. ACTION REQUESTED  PROVIDED IN ATTACHMENT A		
9. EMPLOYEE SIGNATURE 		DATE 2/21/2017
10. NTEU REPRESENTATIVE SIGNATURE 		DATE 2/21/2017

NTEU - 000146



**Attachment A**

Since, on or about December 6, 2016 and in a continuing manner, the Agency has **unilaterally implemented a policy that prevents and/or blocks CBP Officers (Pedestrian/Vehicle Primary/Secondary) from processing subjects who seek asylum or express credible fear of persecution or torture in their native country. This intentional blocking of subjects also prevents CBP Officers from properly screening them for any potential National security and/or terrorist threats to the United States. This Agency practice also prevents any type of recording system for asylum seeker's contact with CBP Officers at the Hidalgo, Texas Ports of Entry while physically presenting themselves for inspection. CBP Directive 3320-002A, CBP Directive 3340-040A, Current Immigration and Nationality Act (INA). (See Attachment B).**

**Example, but not limited to:** While conducting his inspectional duties alongside CBP Officer David Atkinson (Witness) during his 0600 to 0800 overtime assignment on 12/31/2016, CBP Officer Josh Garza referred OTM (Other than Mexican) asylum seekers to CBP secondary for processing. CBP Supervisor Marco Solis and contract Security Guard (Lara) then escorted the referred asylum seekers back to Mexico without secondary system screening or evaluation (direct radio communication). PCS employees stated that this practice is the result of an ongoing order from management for OTM Asylum seekers attempting to make entry into the United States via the Hidalgo, Texas Ports of Entry. CBP Supervisor Marco Solis and other Agency Representatives informed CBPO David Atkinson along with witnesses (CBPO Clough, CBPO Garza) that the Agency was not processing OTMs for asylum purposes and that they are to be returned to Mexico, or the duty Supervisor was to be contacted who would then escort subjects out of the FIS and no OTM asylum seekers would be referred for secondary processing (only metered reports for internal numbers/stats).

This also includes the following:

1] Reducing the safety environment for employees at the passenger and secondary processing areas by not evaluating or screening persons who are other than Mexican (OTM) Nationals seeking political asylum (e.g., but not limited to: Eritreans, El Salvadorians, etc.) as lawfully mandated and past practiced. Private security guards are instructed by the Agency to cut off and prevent certain asylum seekers from entering the building, they are then instructed to contact the duty CBP Supervisor and both the security guards and Supervisory CBP Officers deny entry and any subsequent secondary processing of individuals before escorting them back to Mexico.

2] Continuation of preventing/blocking CBP Officers from referring all asylum seekers into secondary for evaluation and processing. As Officers are ordered by Agency Officials to transport and transfer certain asylum seekers (OTMs) from one city (Pharr, Texas) to another (Hidalgo, Texas) without any proper secondary screening and having them directly escorted back to Mexico without the following checks: health or national security and/or terrorist threats. (12/6/2016-CBP Supervisors Marco Solis, Efraín Solis,

and Ismael Hernandez; CBP Officers Jessica Ibarra, Abraham Pena, Sylvia Guerra and Eric Clough). 8 USC 1158(a)(1), 8 USC 1225(b)(1)(A)(ii), and 8 USC 235 (B).

**3] Falling to provide health screening or job hazard plans for employees who come in contact with overnight ill or non-ill asylum seekers in the Passport Control Secondary (PCS) areas. In fact, certain asylum seekers are told by Agency Officials (Acting Chief Jose Uribe) not to disclose their illnesses to any person or Officer, as they would be returned to their country. This in turn creates an unsanitary and unhealthy working environment for employees in the passenger secondary rotational work sites, as the PCS areas have a continuous and lingering strong odor of human waste in the air.**

**4] Implementation of a policy and procedure that places officers in jeopardy of violating Federal Law, rules and regulations pertaining to asylum seekers; which threatens a CBP Officer's employment, credibility and integrity with the U.S. Government.**

**5] As a result of the Agency's implantation of this practice, Asylum seekers have been emotionally traumatized and employees have been placed in a position that can result in undue physical and/or emotional stress.**

#### **Remedy**

The Union is requesting that all employees who were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrongdoing as mandated by the National Collective Bargaining Agreement (NCBA). The Union requests that health checks be performed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, Law, rule and regulations. The Union requests additional cleanings of the inspectional sites, back pay for all work conducted by private security Officers that would have been otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. The Union requests that the Agency abide by all local and National level agreements. The Union requests back pay compensation for all qualified and available affected employees for all lost monies and work assignments in whatever form they may appear (Overtime, Premium Pay, Night Pay, Call-Back and Commutes) for any past, current or future lost overtime assignment(s) and all attorney fees and other awards deemed necessary by a third party. This compensation is for all affected time periods to include thereafter arbitration if needed. The Union requests that the Agency immediately comply with the National Collective Bargaining Agreement (NCBA), Federal laws, rules and regulations

# Attachment B

NTEU - 000149

**CUSTOMS DIRECTIVE**

**CANCELLED BY OFFICE OF FIELD OPERATIONS, ADMISSIBILITY AND PASSENGER PROGRAMS, 12/14/09**

**ORIGINATING OFFICE: FO:P**

**DISTRIBUTION: S-01**

**CUSTOMS DIRECTIVE NO. 3320-002A**

**DATE: JUNE 8, 1999**

**SUPERSEDES: 3320-002, 12/2/88**

**REVIEW DATE: JUNE 2001**

**SUBJECT: REQUESTS BY PERSONS TO REMAIN IN UNITED STATES (E.G., POLITICAL ASYLUM)**

**1 PURPOSE.** To inform Customs officers of the proper procedures to follow when a person (including a crewmember) arriving in the United States informs a Customs officer that he or she wishes to remain in the United States.

**2 POLICY.**

**2.1** This directive applies to all persons arriving in the United States, regardless of nationality or means of conveyance, including those on foot.

**2.2** The United States is bound by both the Protocol on Refugees and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, except under extraordinary circumstances, may not return persons to countries where they may face persecution or torture. United States statutes and regulations implementing these international obligations require that only officers specifically trained and experienced in asylum law, country conditions, and related matters make the determination whether the person should be returned to another country. The U.S. Customs Service, therefore, defers to the Immigration and Naturalization Service to make such determinations.

**3 AUTHORITIES/REFERENCES.** 19 USC 1433; 19 USC 1436; 19 USC 1461; 19 USC 1467; 19 USC 1496; 19 USC 1582; 46 USC App. 91; 19 CFR Part 148 ;19 CFR 4.60(a) and 122.61-122.65.

**4 RESPONSIBILITIES.**

**4.1** Principal Field Officers, to include Port Directors, are responsible for developing and establishing procedures to ensure proper implementation of this Directive.

**4.2** Supervisors shall ensure that inspectional personnel are familiar with the procedures outlined in this directive and that all guidelines are followed.

NTEU - 000150

## 5 PROCEDURES.

5.1 When a person arriving in the United States and regardless of the means of transport makes known to a Customs officer a desire to remain in the United States, it shall be assumed by the Customs officer that the person is seeking asylum in the United States. The person does not have to use the specific terms "asylum" or "persecution" to justify such an assumption by the Customs officer. The person may not say anything at all, but his non-verbal actions or body language may make the person's intention or fear of return obvious to the Customs officer. Customs officers are not to make judgement calls concerning such fear based on country of origin, credibility of the person, or possible strength of the claim. When a person expresses such a fear or desire to remain in the United States, further action shall be taken as follows:

5.1.1 If the Customs officer is working with a U.S. Immigration and Naturalization Service (INS) officer, the person seeking to remain in the United States shall be immediately turned over to the INS officer and the Customs officer shall forthwith notify the Port Director. The Port Director shall notify the Director, Field Operations, the Associate Chief Counsel, and the HQ Situation Room (1-877-748-7886), which shall notify the appropriate Customs officers at Headquarters, including the Assistant Commissioner (Field Operations).

5.1.2 If no U.S. Immigration and Naturalization Service (INS) officer is immediately available, the Customs officer shall detain the person seeking to remain in the United States under 19 USC 1582 (see also, 19 USC 1433, 1436, 1461, 1487, and 1496 and 19 CFR Part 148) and notify the nearest INS office or the appropriate INS office having jurisdiction over the location where the inspection is taking place that a person has expressed a fear of persecution or desire to remain in the United States. Protective Custody should be provided the person seeking to remain in the United States and, if necessary, reasonable force may be used to thwart attempts at forcible repatriation until an INS officer has had an opportunity to question the person. If, at a small land border port, an INS officer is unable to respond, the person may be directed to the nearest INS-staffed port.

5.2 The Customs officer shall obtain the name, nationality, date and place of birth, occupation, and documents of the person seeking to remain in the United States; the circumstances and location of the incident; and any other pertinent information. The Customs officer shall immediately call the Port Director and the Customs officer's immediate supervisor. If the Port Director and the Customs officer's immediate supervisor are not available, the Customs officer shall notify Sector. The Customs officer shall explain the situation to the Port Director, immediate supervisor, or responsible official in Sector and shall provide that person with the information he or she has obtained. The Port Director or other responsible official notified shall notify the INS District Director and arrange for the transfer of the case to the INS as soon as possible. The Customs Port Director shall ensure that all other appropriate Federal agencies (usually the Department of State and the Coast Guard) are immediately

advised of the situation so that action can be properly coordinated. The Customs Port Director shall also notify the Director, Field Operations, and the Headquarters Situation Room (1-877-748-7666). Headquarters will be responsible for ensuring that the U.S. Secret Service Intelligence Division Duty Desk Supervisor, (202) 435-5000, is notified of the incident.

5.3 If the person seeking to remain in the United States is on board a vessel or aircraft and the master of the vessel or the commander of the aircraft refuses to permit the person to leave the vessel or aircraft, clearance (see 48 USC App. 91 and 19 CFR 4.60(a) and 122.81-122.85) shall be withheld pending resolution of the matter. The Headquarters Situation Room (1-877-748-7666) shall be contacted immediately and they shall contact the appropriate Customs officials at Headquarters.

6 **MEASUREMENT.** The number of requests by persons to remain in the United States reported to the Headquarters Situation Room.

Commissioner of Customs

NTEU - 000152





U.S. Citizenship and  
Immigration Services

## Asylum



### **ALERT: Asylum Division Affirmative Asylum Scheduling Bulletin**

Every year people come to the United States seeking protection because they have suffered persecution or fear that they will suffer persecution due to:

- Race
- Religion
- Nationality
- Membership in a particular social group
- Political opinion

If you are eligible for asylum you may be permitted to remain in the United States. To apply for Asylum, file a **Form I-589, Application for Asylum and for Withholding of Removal**, within one year of your arrival to the United States. There is no fee to apply for asylum.

You may include your spouse and children who are in the United States on your application at the time you file or at any time until a final decision is made on your case. To include your child on your application, the child must be under 21 and unmarried. For more information see our Form I-589, Application for Asylum and for Withholding of Removal page.

### **Permission to Work in the United States**

You cannot apply for permission to work (employment authorization) in the United States at the same time you apply for asylum.

You may apply for employment authorization if:

- 150 days have passed since you filed your complete asylum application, excluding any delays caused by you (such as a request to reschedule your interview) AND
- No decision has been made on your application

<https://www.uscis.gov/humanitarian/refugees-asylum/asylum>

1/19/2017

NTEU - 000153

If you are granted asylum you may work immediately. Some asylees choose to obtain Employment Authorization Documents (EADs) for convenience or identification purposes, but an EAD is not necessary to work if you are an asylee.

To apply for employment authorization, you must file a Form I-765, Application for Employment Authorization. There is no fee to apply for your first EAD if you have a pending asylum application or if you have been granted asylum. For more information see our Form I-765, Application for Employment Authorization page.

See the 180-Day Asylum EAD Clock Notice (PDF, 338 KB) and the ABT Settlement Agreement for further information.

### Bringing Your Family to the United States

If you are granted asylum you may petition to bring your spouse and children to the United States by filing a Form I-730, Refugee/Asylee Relative Petition. To include your child on your application, the child must be under 21 and unmarried.

You must file the petition within two years of being granted asylum unless there are humanitarian reasons to excuse this deadline. There is no fee to file this petition. For more information see our Form I-730, Refugee/Asylee Relative Petition page.

### Filing for Permanent Residence (Green Card)

You may apply for a green card one year after being granted asylum. To apply for a green card, file a Form I-485, Application to Register Permanent Residence or to Adjust Status. You must submit a separate I-485 application packet for yourself and, if applicable, for each family member who received derivative asylum based on your case.

For more information about green cards, see our Green Cards for an Asylee page. For more information about asylum, see our Questions & Answers: Asylum page.



Last Reviewed/Updated: 08/06/2015

# Step 1 Grievance

NTEU - 000155



Chapter 149 Hidalgo, Texas

January 19, 2017

**Mr. Carlos J. Gonzalez**  
9901 South Cage Blvd  
Pharr, Texas 78577  
956-227-7168  
9562832060  
carlos.javier.gonzalez.cbp.dhs.gov

Dear Sir,

Pursuant to the current National CBP/NTEU National Bargaining Agreement (NBCA), the Union is requesting a Step 1 grievance meeting with the Agency concerning:

(Article 2- Section 1) The Agency's failure to exercise the referenced authorities or discretion fairly and consistently so as to avoid adverse impact to the employee's working conditions, responsibilities, integrity and creditability with the position they hold with the US Government.

(Article 33- Sections 1 and 4A) The Agency also failed to initiate prompt and appropriate action to correct unsafe conditions whenever they are found to exist and raised. In which the Agency is required to make every reasonable effort, consistent with the mission of the Service and the inherent hazards of the work to be performed, to provide and maintain safe and healthful working conditions when and where it is within its authority and control to do so.

(Article 3- Section 3, Article 31- Section 4A and B) Therefore, the Agency officials failed to conduct themselves in a professional and businesslike manner, characterized by mutual courtesy, in their day to day working relationships when, (Article 26-Section 3.A) the Agency unilaterally implemented without notice changes in operational or administrative procedures or of any new initiative affecting an employee's working conditions, lawful orders; by acting in the following capricious and malicious manner:

**Brief Summary:**

Since, on or about 12/6/2016 and in a continuing manner, the Agency has unilaterally implemented a policy that prevents and/or blocks CBP Officers (pedestrian primary/secondary) from processing political asylum seekers and assessing their possible persecution or torture, and their potential

NTEU - 000156

national security and/or terrorist threats to the United States. To include, recording asylum seeker's contact with CBP Officers at the Hidalgo, Ports of Entry while physically presenting themselves for inspection. CBP Directive 3320-002A, CBP Directive 3340-040A, current Immigration and Nationality Act (INA).

**Example, but not limited to:** CBPO Josh Garza referred Other Than Mexican (OTM) Asylum seekers during his 6am to 8am overtime assignment on 12/31/2016 while working with CBPO David Atkinson. CBP Supervisor Marco Solis and Private Security Guards (LARA) escorted the referred asylum seekers back to Mexico without secondary system screening or evaluation (direct radio communication) PCS employees stated that this was the running order from management for OTM asylum seekers. CBP Supervisor Marco Solis and other Agency representatives informed CBPO David Atkinson with witnesses (Clough, Garza) that the Agency was not processing OTMs for asylum purposes and that they are to be returned to Mexico, or call the supervisor and they would escort them out of the building, that they are not being referred for processing, just metered reports internally for numbers.

In ladder, this also includes the following:

3) Reducing the safety environment for employees at the passenger and secondary sites by not evaluating or screening persons who are Other Than Mexicans (OTM) seeking political asylum (e.g., but not limited to Africans, El Salvadorians, ...) as lawfully mandated and past practiced. Private Security Guards are instructed by the Agency to stop certain asylum seekers from entering the building, have them call a CBP Supervisor and; both Supervisors and security guards deny entry and processing and escort them back to the path to Mexico.

4) Continuation of preventing/ blocking CBP Officers from referring all asylum seekers into secondary for evaluation and processing. As officers are order by Agency officials to transport and transfer certain asylum seekers (OTM's) from one city (Pharr, Texas) to another (Hidalgo, Texas) without screening and having them directly forced back into Mexico without the following checks: health or national security and/or terrorist threats. (12/6/2016-CBP Supervisors Marco Solis, Efraín Gonzalez, Ismael Hernandez; CBP Officer's Jessica Ibarra, Abraham Pena, Sylvia Guerra and Eric Clough). 8 USC 1158(a)(1), 8 USC 1225(b)(1)(A)(ii), 8 USC 235(B).

5) Failing to provide health screening or hazard plans for employees who come in contact with overnight ill or non-ill asylum seekers in the PCS areas. In fact, certain asylum seekers are told by Agency officials (Uribe) not to disclose their illnesses to any person, as they would be returned to their country. This in turn creates and unsanitary and unhealthy working environment for employees in the passenger secondary rotational sites, as the PCS areas have a continuous strong odor of human waste lingering in the air.

6) Implementation of a policy and procedure that places officers in jeopardy of violating federal law, rules and regulations pertaining to asylum seekers; which threatens a CBP Officer's employment, credibility and integrity with the US Government.

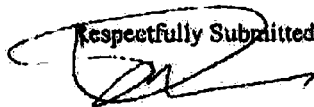
7) Asylum seekers were emotional traumatized, employees were stressed out by the practices placed by the agency.

**Remedy:**

The Union is requesting that all employees that were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrong doing as mandated by the NCBA. The Union requests that health checks be completed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, law, rule and regulations. Additional Cleaning of inspectional sites, back pay for all work conducted by Private Security Officers that would have otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. All attorney fees and all other remedies deemed appropriate by a third party.

Please provide a proposed meeting date for this meeting by email. Please respond electronically at [david.atkinson@cbp.dhs.gov](mailto:david.atkinson@cbp.dhs.gov) and for any additional information concerning this matter. You may also reach me at 956-227-2222.

Respectfully Submitted,



Mr. David Atkinson  
President- NTEU Chapter 149  
Hidalgo, Texas.

NTEU - 000158

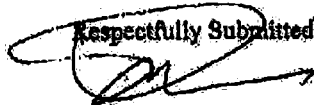


**Remedy:**

The Union is requesting that all employees that were not allowed to process asylum seekers due to the Agency's orders and unilateral practices be exonerated from all wrong doing as mandated by the NCEA. The Union requests that health checks be completed on asylum seeking detainees prior to their extended stay during processing. The Union requests that a Job Hazards Plan be implemented for the affected work environments that detain and handle temporarily detained individuals in the A, B, and C buildings. The Union requests back-pay for all mandated work that would have been conducted if the asylum processing, transportation, care and detainment procedures would have been followed pursuant to CBP Mandates, law, rule and regulations. Additional Cleaning of inspectional sites, back pay for all work conducted by Private Security Officers that would have otherwise been mandated to be performed by a CBP Officer in the facilitation and handling of blocked/denied asylum seekers. All attorney fees and all other remedies deemed appropriate by a third party.

Please provide a proposed meeting date for this meeting by email. Please respond electronically at [david.atkinson@cbp.dhs.gov](mailto:david.atkinson@cbp.dhs.gov) and for any additional information concerning this matter. You may also reach me at 956-227-2222.

Respectfully Submitted,



Mr. David Atkinson  
President- NTEU Chapter 149  
Hidalgo, Texas.

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

10 SOUTHERN POVERTY LAW CENTER  
Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>81</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 82 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>81</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1 CENTER FOR CONSTITUTIONAL RIGHTS

2 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

3 *bazmy@ccrjustice.org*

4 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

5 *gschwarz@ccrjustice.org*

6 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

7 *aguisado@ccrjustice.org*

8 666 Broadway, 7th Floor

9 New York, NY 10012

10 Telephone: +1.212.614.6464

11 Facsimile: +1.212.614.6499

12 SOUTHERN POVERTY LAW CENTER

13 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

14 *sarah.rich@splcenter.org*

15 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

16 *rebecca.cassler@splcenter.org*

17 150 E. Ponce de Leon Ave., Suite 340

18 Decatur, GA 30030

19 Telephone: +1.404.521.6700

20 Facsimile: +1.404.221.5857

21 AMERICAN IMMIGRATION COUNCIL

22 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

23 *kwalters@immcouncil.org*

24 1331 G St. NW, Suite 200

25 Washington, D.C. 20005

26 Telephone: +1.202.507.7523

27 Facsimile: +1.202.742.5619

1300 Pennsylvania Avenue NW  
Washington, DC 20229



U.S. Customs and  
Border Protection

APR 27 2018

MEMORANDUM FOR: See Distribution [REDACTED]  
FROM: Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations  
SUBJECT: Metering Guidance

When necessary or appropriate to facilitate orderly processing and maintain the security of the port and safe and sanitary conditions for the traveling public, DFOs may elect to meter the flow of travelers at the land border to take into account the port's processing capacity. Depending on port configuration and operating conditions, the DFO may establish and operate physical access controls at the borderline, including as close to the U.S.-Mexico border as operationally feasible. DFOs may not create a line specifically for asylum-seekers only, but could, for instance, create lines based on legitimate operational needs, such as lines for those with appropriate travel documents and those without such documents.

Ports should inform the waiting travelers that processing at the port is currently at capacity and CBP is permitting travelers to enter the port once there is sufficient space and resources to process them. At no point may an officer discourage a traveler from waiting to be processed, claiming fear of return, or seeking any other protection. Officers may not provide tickets or appointments or otherwise schedule any person for entry. Once a traveler is in the United States, he or she must be fully processed.

INAMI has, at times, elected to conduct exit controls at some locations in Mexico to limit the throughput of travelers into the United States. DFOs should be particularly aware of any INAMI controls that are preventing U.S. citizens, LPRs, or Mexican nationals (some of whom may intend to claim fear) from entering the United States, and should work with INAMI, as appropriate, to address such concerns.

Please ensure that this memorandum is disseminated to all ports of entry within your area of responsibility. Should you have any questions or require additional information, please contact

[REDACTED] Executive Director, APP, at [REDACTED]

Distribution: Director, Field Operations, El Paso  
Director, Field Operations, Laredo  
Director, Field Operations, San Diego  
Director, Field Operations, Tucson

EXHIBIT 3  
[REDACTED]

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>1</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26  
27  
28

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 84 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



Case 3:17-cv-02366-BAS-KSC Document 767-44 Filed 09/30/21 PageID.67256 Page 3 of 5

**From:** HOOD, ROBERT W <[REDACTED]>  
**Sent:** Tuesday, April 24, 2018 9:02 PM  
**To:** AH NEE, KAREN S <[REDACTED]>; GORDON, TAKA T <[REDACTED]>; AKI, SIDNEY K <[REDACTED]>; MARIN, MARIZA <[REDACTED]>  
**Subject:** RE: SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

---

Thank you

**From:** AH NEE, KAREN S  
**Sent:** Tuesday, April 24, 2018 5:43:47 PM  
**To:** HOOD, ROBERT W; GORDON, TAKA T; AKI, SIDNEY K; MARIN, MARIZA  
**Subject:** RE: SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

We are intaking 82 right now and there's nothing at the turnstile.

Karen S. Ah Nee  
 Branch Chief, U.S. Customs & Border Protection  
 Admissibility Enforcement Unit/UTRT  
 San Ysidro Port of Entry  
 [REDACTED]

**From:** HOOD, ROBERT W  
**Sent:** Tuesday, April 24, 2018 5:41 PM  
**To:** GORDON, TAKA T <[REDACTED]>; AKI, SIDNEY K <[REDACTED]>; MARIN, MARIZA <[REDACTED]>; AH NEE, KAREN S <[REDACTED]>  
**Subject:** RE: SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

How many are we intaking right now?

Is there a line waiting at the Ped West turnstile?

**From:** GORDON, TAKA T  
**Sent:** Tuesday, April 24, 2018 4:41:12 PM  
**To:** AKI, SIDNEY K; HOOD, ROBERT W; MARIN, MARIZA; AH NEE, KAREN S  
**Subject:** SYS AEU Custody Report for 04/24/2018 @ 1630 HRS

All,

OFO currently has **209** detainees in custody (**0** detainees at BP Barracks, **0** detainees at IMB, **209** detainees at SYS POE, and **0** in the Hospital).

<b><u>Completed Cases:</u></b>	
<b>Total Completed Cases: 57 (35 Singles, 1 UAC, 21 individuals from 7 Family Units)</b>	
Locations: BP Barracks: <b>0</b> IMB BP Station: <b>0</b> SYS POE: <b>57</b> HOSPITAL: <b>0</b>	<b>Total: 57</b>
<b>Pending Processing at SYS POE: 116 (116 at SYS POE, 0 in the Hospital)</b>	

Confidential

AOL-DEF-00010764

<b>22</b> Need to be processed as ER/CF/OTM ERs /Paroles. <b>93</b> Individuals <b>32</b> from Family Units need to be processed as NTAs/ERs. <b>1</b> UAC needs to be processed as NTA. <b>0</b> New cases pending input in SIGMA.	<b>Total: 116</b>
<b>Mexican Fraud/Not going into custody: 36 (36 at SYS POE, 0 in the Hospital)</b>	<b>Total: 36</b>
<b>Currently OFO: 209</b>	<b>Total: 209</b>

\*\*\*Total waiting at Limit Line: 0\*\*\*

**DAYS IN CUSTODY**

00-03 DAYS: 204	OFO: 204	Barracks: 0	IMB: 0
04-07 DAYS: 05	OFO: 05	Barracks: 0	IMB: 0
08-11 DAYS: 0	OFO: 00	Barracks: 0	IMB: 0
12-15 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
16-25+ DAYS: 0	OFO: 0	Barracks: 0	IMB: 0

Respectfully,

Taka T. Gordon  
Supervisory CBP Officer  
Admissibility Enforcement Unit  
Tactical Terrorist Response Team  
Customs and Border Protection  
San Ysidro Port of Entry

This document and any attachment(s) may contain restricted, sensitive, and/or law enforcement-sensitive information belonging to the U.S. Government. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient.



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 85 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

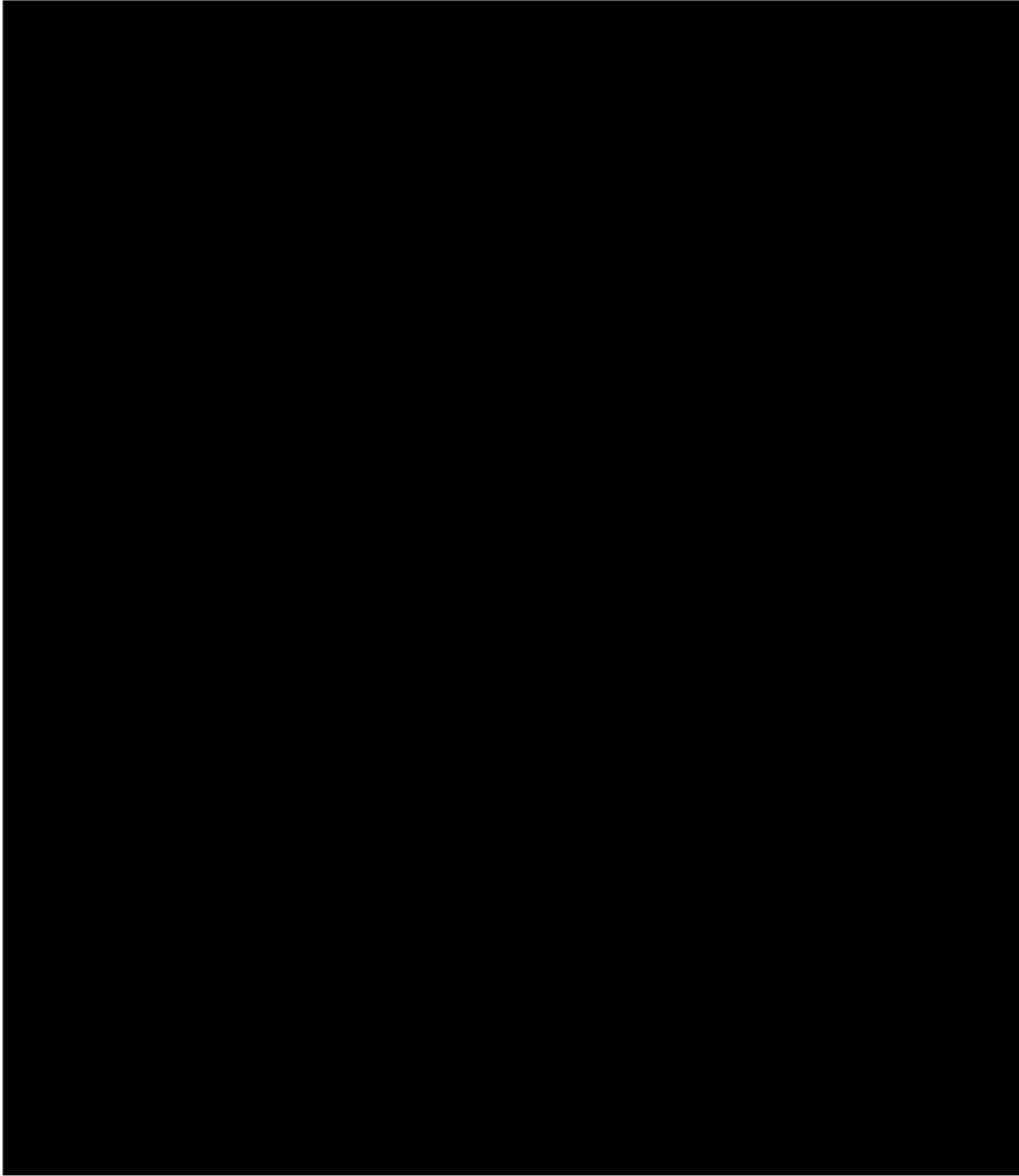
Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 767-45 Filed 09/30/21 PageID.67261 Page 3 of 5

**From:** CALVILLO, CHRISTIAN D <[REDACTED]>

**Sent:** Friday, April 27, 2018 9:29 AM



Confidential

AOL-DEF-00010718



**Subject:** SYS AEU Custody Report for 04/27/2018  
**Attach:** SYS AEU CUSTODY REPORT 04-27-2018.xls

All,

OFO currently has **257** detainees in custody (**0** detainees at BP Barracks, **0** detainees at IMB, **257** detainees at SYS POE, and **0** in the Hospital).

<p align="center"><b><u>Completed Cases:</u></b></p> <p><b>Total Completed Cases: 59 (28 Singles, 0 UAC, 31 individuals from 10 Family Units)</b></p> <p>Locations: BP Barracks: <b>0</b>  IMB BP Station: <b>0</b>  SYS POE: <b>59</b>  HOSPITAL: <b>0</b></p>	<p align="center"><b>Total: 59</b></p>
<p><b>Pending Processing at SYS POE: 158 (158 at SYS POE, 0 in the Hospital)</b></p> <p><b>40</b> Need to be processed as ER/CF/OTM ERs /Paroles.  <b>117</b> Individuals from <b>39</b> Family Units need to be processed as NTAs/ERs.  <b>1</b> UAC needs to be processed as NTA.  <b>0</b> New cases pending input in SIGMA.</p>	<p align="center"><b>Total: 158</b></p>
<p><b>Mexican Fraud/Not going into custody: 40 (40 at SYS POE, 0 in the Hospital)</b></p>	<p align="center"><b>Total: 40</b></p>

**Currently OFO: 257****Total: 257****\*\*\*Total waiting at Limit Line: 0\*\*\*****DAYS IN CUSTODY**

00-03 DAYS: 256	OFO: 256	Barracks: 0	IMB: 0
04-07 DAYS: 01 ERO NOTIFIED MOVEMENT PENDING	OFO: 01	Barracks: 0	IMB: 0
08-11 DAYS: 0	OFO: 00	Barracks: 0	IMB: 0
12-15 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
16-25+ DAYS: 0	OFO: 0	Barracks: 0	IMB: 0

Sincerely,

**CHRISTIAN D. CALVILLO**  
 Customs and Border Protection Officer  
 Admissibility Enforcement Unit  
 Office of Field Operations  
 San Ysidro Port of Entry



Confidential

AOL-DEF-00010720

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 86 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

25  
26  
27  
28 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

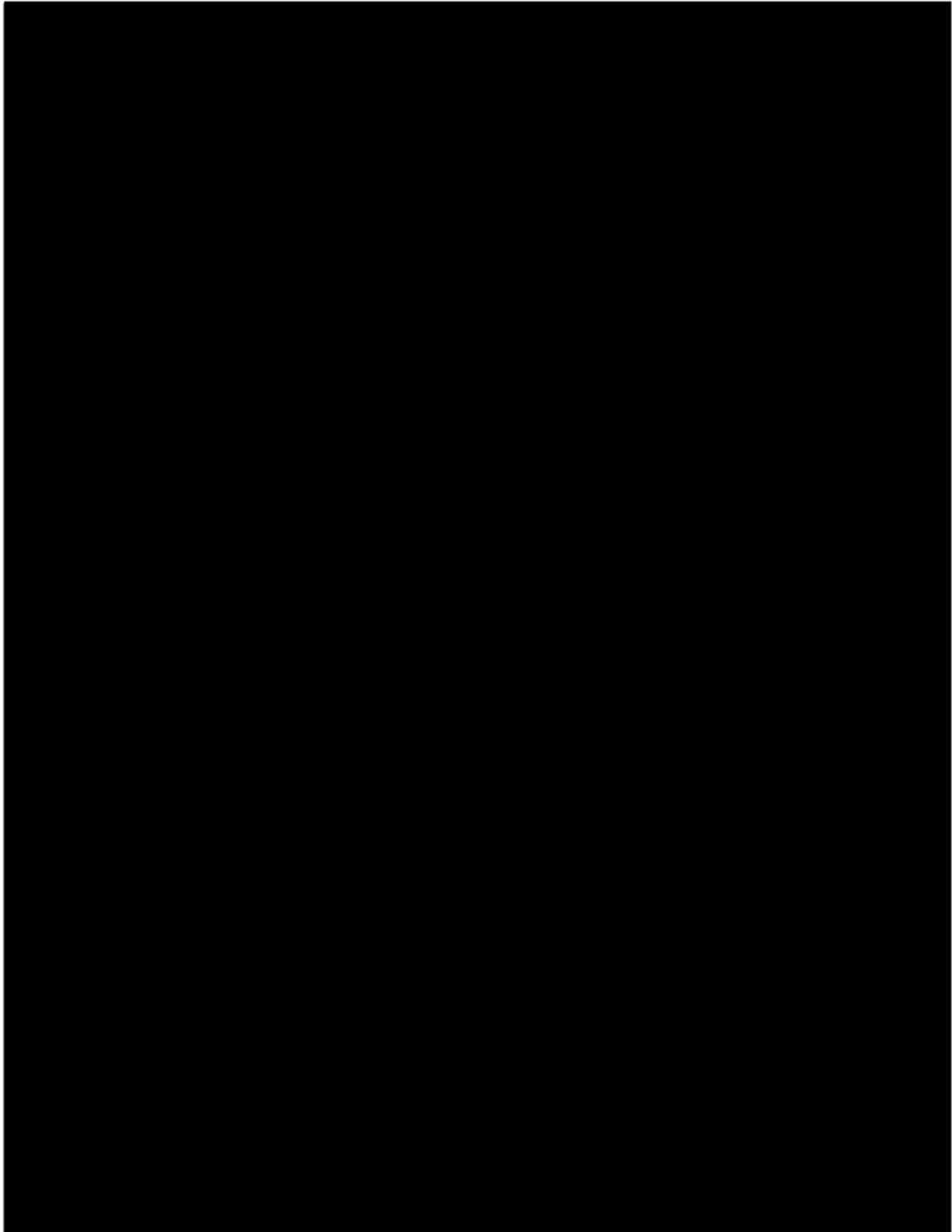
27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

**From:** CALVILLO, CHRISTIAN D <[REDACTED]>  
**Sent:** Saturday, April 28, 2018 8:40 AM



Confidential

AOL-DEF-00010722

**Subject:** SYS AEU Custody Report for 04/28/2018  
**Attach:** SYS AEU CUSTODY REPORT 04-28-2018.xls

All,

OFO currently has **253** detainees in custody (**0** detainees at BP Barracks, **0** detainees at IMB, **253** detainees at SYS POE, and **0** in the Hospital).

<p align="center"><b><u>Completed Cases:</u></b></p> <p><b>Total Completed Cases: 31 (23 Singles, 1 UAC, 7 individuals from 2 Family Units)</b></p> <p>Locations: BP Barracks: <b>0</b>  IMB BP Station: <b>0</b>  SYS POE: <b>31</b>  HOSPITAL: <b>0</b></p>		<b>Total: 31</b>
<p><b>Pending Processing at SYS POE: 171 (171 at SYS POE, 0 in the Hospital)</b></p> <p><b>47</b> Need to be processed as ER/CF/OTM ERs /Paroles.  <b>120</b> Individuals from <b>43</b> Family Units need to be processed as NTAs/ERs.  <b>4</b> UAC needs to be processed as NTA.  <b>0</b> New cases pending input in SIGMA.</p>		<b>Total: 171</b>
<p><b>Mexican Fraud/Not going into custody: 51 (51 at SYS POE, 0 in the Hospital)</b></p>		<b>Total: 51</b>
<p><b>Currently OFO: 253</b></p>		<b>Total: 253</b>

**\*\*\*Total waiting at Limit Line: 0\*\*\***

**DAYS IN CUSTODY**

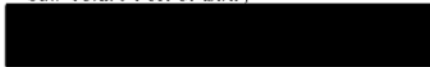
00-03 DAYS: 253	OFO: 253	Barracks: 0	IMB: 0



04-07 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
08-11 DAYS: 0	OFO: 00	Barracks: 0	IMB: 0
12-15 DAYS: 0	OFO: 0	Barracks: 0	IMB: 0
16-25+ DAYS: 0	OFO: 0	Barracks: 0	IMB: 0

Sincerely,

**CHRISTIAN D. CALVILLO**  
Customs and Border Protection Officer  
Admissibility Enforcement Unit  
Office of Field Operations  
San Ysidro Port of Entry



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26  
27  
28

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 87 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

# Migration Crisis Action Team

## April 29, 2018

**WARNING:** This document is designated UNCLASSIFIED//LAW ENFORCEMENT (U//LES). It may contain information that is exempt from public release under the Freedom of Information Act (5USC552). This document is to be controlled, handled, transmitted, and disposed of in accordance with DHS policy relating to FOUO information, and is not to be released to the public or to personnel who do not have a valid need to know without prior approval.



**Homeland  
Security**

Confidential



Total	Demographic	App's / Inadmissibles (Previous Day)	21-Day Average	Currently in Custody	Average TIC (HRS)	Processed Complete / Ready for ERO	TOT (Prev Day)
CBP Southwest Border	UAC	143	188	196	27	108	11
	FMUA	458	540	1,595	49	853	40
	Single Adults	992	1,051	1,752	42	828	29
	Total App's	1,593	1,779	3,543	44	1,789	81

Total	Demographic	Apprehensions (Previous Day)	21-Day Average	Currently in Custody	Average TIC (HRS)	Processed Complete / Ready for ERO	TOT (Prev Day)
USBP Southwest Border	UAC	108	150	153	24	80	10
	FMUA	313	347	1,253	47	647	28
	Single Adults	777	833	1,444	36	751	22
	Total App's	1,198	1,331	2,850	40	1,478	61

Total	Demographic	Inadmissibles (Previous Day)	21-Day Average	Currently in Custody	Average TIC (HRS)	Processed Complete / Ready for ERO	TOT (Prev Day)
OFO Southwest Border	UAC	35	39	43	37	28	1
	FMUA*	145	203	342	57	206	11
	Singles	215	228	308	70	77	6
	Total Subjects	395	470	693	61	311	20

\*OFO did not start tracking FMUA until March 2016



# Homeland Security

**FOR OFFICIAL USE ONLY //LAW ENFORCEMENT SENSITIVE**

Confidential

EEC	22%
EPT	20%
LRT	16%
RGV	42%
SDC	10%
TCA	8%
YUM	46%
Total	20%

Central Processing	Capacity	In Custody	% Capacity
RGV/CPC			76%
TCA/TCC			38%

*\*RGV sector capacity and in-custody numbers include the CPC figures*  
*<sup>44</sup>Tucson sector capacity and in-custody numbers include the TCC figures*



# Homeland Security

**FOR OFFICIAL USE ONLY // LAW ENFORCEMENT SENSITIVE**

Confidential

TUCSON		
Total		
	<b>OFO Port</b>	<b>Capacity</b>
	BROWNSVILLE, TX (2301)	
	CALEXICO, CA (2503/2507)	
	EL PASO, TX (2402)	
	HIDALGO, TX (2305)	
	LAREDO, TX (2304)	
	NOGALES, AZ (2604)	
	OTAY MESA (2506)	
	SAN LUIS, AZ (2608)	
	SAN YSIDRO (2504)	
	TORNILLO, TX (2404)	

TUCSON	Total
BROWNSVILLE, TX (2301)	
CALEXICO, CA (2503/2507)	
EL PASO, TX (2402)	
HIDALGO, TX (2305)	
LAREDO, TX (2304)	
NOGALES, AZ (2604)	
OTAY MESA (2506)	
SAN LUIS, AZ (2608)	
SAN YSIDRO (2504)	
TORNILLO, TX (2404)	





UAC breakdown last 21 days



FMUA breakdown last 21 days



Singles breakdown last 21 days



Homeland  
Security

Confidential

FOR OFFICIAL USE ONLY //LAW ENFORCEMENT SENSITIVE

# USBP Northern Border TSM Outbound Report (FYTD)

Report Run Date: 4/29/2018 6:44:36 AM

Preliminary Data and Subject to Change

## Outbound by Sector/Month

	October	November	December	January	February	March	April
BLW	90	69	63	53	56	49	32
BUN	2	0	0	0	0	0	0
GFN	67	38	22	20	31	53	13
HLT	0	0	0	0	0	0	2
HVM	2	1	1	1	8	1	0
SWB	1,652	1,500	1,505	1,260	1,307	1,634	1,802
<b>Total</b>	<b>1,813</b>	<b>1,608</b>	<b>1,591</b>	<b>1,334</b>	<b>1,402</b>	<b>1,737</b>	<b>1,849</b>



# Homeland Security

FOR OFFICIAL USE ONLY

Confidential

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 88 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

25  
26  
27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



Case 3:17-cv-02366-BAS-KSC Document 767-48 Filed 09/30/21 PageID.67278 Page 3 of 3

**From:** MCALEENAN, KEVIN K

**Sent:** Sunday, April 29, 2018 3:23 PM

**To:** FLORES, PETE ROMERO; Owen, Todd C (AC OFO); PROVOST, CARLA (USBP); SCOTT, RODNEY S; VILLAREAL, ROY D; GONZALEZ, CARLOS L

**CC:** VITIELLO, RONALD D (USBP); FLANAGAN, PATRICK S

**Subject:** RE: Checking in

Thank you. What is current capacity level?

---

**From:** FLORES, PETE ROMERO

**Sent:** Sunday, April 29, 2018 3:20:52 PM

**To:** MCALEENAN, KEVIN K; Owen, Todd C (AC OFO); PROVOST, CARLA (USBP); SCOTT, RODNEY S; VILLAREAL, ROY D; GONZALEZ, CARLOS L

**Cc:** VITIELLO, RONALD D (USBP); FLANAGAN, PATRICK S

**Subject:** RE: Checking in

Sir,

- No caravan subjects have arrived at the San Ysidro Port
- INM has stated they will hold subjects at the entrance to their facility and allow small groups to the limited line so we can notify the subjects we are at capacity.
- INM will allow the subjects to stay at the limit line on the Mexican side for a duration time and ask that they proceed back to the entrance.
- [REDACTED]

Pete Flores

Director, Field Operations

San Diego, CA

U.S. Customs and Border Protection

---

**From:** MCALEENAN, KEVIN K

**Sent:** Sunday, April 29, 2018 12:07 PM

**Subject:** Checking in

How is everything looking?

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 29 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM  
OF POINTS AND AUTHORITIES  
IN SUPPORT OF THEIR MOTION  
TO EXCLUDE DEFENDANTS'  
PURPORTED EXPERT  
TESTIMONY**

**EXHIBIT 93 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM  
OF POINTS AND AUTHORITIES  
IN SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

24  
25  
26  
27  
28 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
McAleenan pursuant to Fed. R. Civ. P. 25(d).



1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

**From:** AKI, SIDNEY K  
**Sent:** Thursday, May 24, 2018 7:23 PM  
**To:** CARRILLO, SALLY R; HOOD, ROBERT W  
**Subject:** FW: Info needed by 1600

Fyi.

---

**From:** FLORES, PETE ROMERO  
**Sent:** Thursday, May 24, 2018 4:05:30 PM  
**To:** AKI, SIDNEY K; HERNANDEZ, ROSA E; SALAZAR, DAVID A  
**Cc:** ARMJO, JOHNNY L; MARICICH, ANNE L  
**Subject:** FW: Info needed by 1600

FYSA – this is what I sent to HQ for the EAC.

Pete Flores  
 Director, Field Operations  
 San Diego, CA  
 U.S. Customs and Border Protection  
 Work Phone: [REDACTED]  
 Fax: [REDACTED]

---

**From:** FLORES, PETE ROMERO  
**Sent:** Thursday, May 24, 2018 10:49 AM  
**To:** HOWE, RANDY L <[REDACTED]>  
**Cc:** 'MARICICH, ANNE L <[REDACTED]>; ARMJO, JOHNNY L <[REDACTED]>  
**Subject:** RE: Info needed by 1600

Randy,

We would need [REDACTED] positioned at [REDACTED] our pedestrian facilities for all total of [REDACTED]

<u><b>San Ysidro</b></u>			
Ped West	[REDACTED] officers x	[REDACTED] shifts =	[REDACTED]
Ped East	[REDACTED] officers x	[REDACTED] shifts =	[REDACTED]
<u><b>Otay Mesa</b></u>			
Ped	[REDACTED] officers x	[REDACTED] shifts =	[REDACTED]
<u><b>Tecate</b></u>			
Ped	[REDACTED] officers x	[REDACTED] shifts =	[REDACTED]
<u><b>Calexico</b></u>			
West Ped	[REDACTED] officers x	[REDACTED] shifts =	[REDACTED]
East Ped	[REDACTED] officers x	[REDACTED] shifts =	[REDACTED]
<u><b>Andrade</b></u>			
Ped	[REDACTED] officers x	[REDACTED] shifts =	[REDACTED]

The numbers that would have be held at or near the limit line would vary significantly at each port and throughout the year. However we would see the biggest impact at the port of San Ysidro followed by Calexico and Otay Mesa. Under normal circumstances and not accounting of volume influxes (caravans, etc.) we could be holding **110-120** subjects a day at the limit line with that number increasing each day.

Based on previous/current flows and assets being dedicated to the processing and detention we estimate the following changing would occur based on focusing on priorities;

<u><b>San Ysidro</b></u>	
Current	Intake 80-100 individuals a day
Future	Intake 20-40 individuals a day
<u><b>Calexico</b></u>	
Current	Intake 30-40 individuals a day
Future	Intake 10-20 individuals a day
<u><b>Otay Mesa</b></u>	
Current	Intake 10-30 individuals a day
Future	Redirected to San Ysidro for processing

Case 3:17-cv-02366-BAS-KSC Document 767-6 Filed 09/30/21 PageID.67054 Page 4 of 4

Pete Flores  
Director, Field Operations  
San Diego, CA  
U.S. Customs and Border Protection  
Work Phone: [REDACTED]  
Fax: [REDACTED]

---

**From:** HOWE, RANDY J  
**Sent:** Thursday, May 24, 2018 10:08 AM  
**To:** FLORES, PETE ROMERO <[REDACTED]>; MARICICH, ANNE L <[REDACTED]>; RAMIREZ, GUADALUPE H <[REDACTED]>; MANCHA, HECTOR <[REDACTED]>; PROVENCIO, RAY <[REDACTED]>; HIGGERSON, DAVID P <[REDACTED]>; SKINNER, BRADD M. <[REDACTED]>  
**Cc:** CAMPBELL, CARL S <[REDACTED]>  
**Subject:** FW: Info needed by 1600  
**Importance:** High

DFOs: See EAC request below for a Secretary meeting today. Any questions please call me.

Randy J. Howe  
Executive Director, Operations  
Office of Field Operations  
U.S. Customs and Border Protection  
[REDACTED] (Office)  
[REDACTED] (Cell)

---

**From:** Owen, Todd C (AC OFO)  
**Sent:** Thursday, May 24, 2018 12:59 PM  
**To:** HOWE, RANDY J <[REDACTED]>; CAMPBELL, CARL S <[REDACTED]>  
**Cc:** BORDEAUX, TYESHA <[REDACTED]>  
**Subject:** Info needed by 1600  
**Importance:** High

Randy/Shane,

- For an S1 meeting this afternoon, S1's office is asking if we fully implement the priority based Que Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day?

Can you please contact the 4 SWB DFOs and get a very rough estimate by field office?

Thank you.

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations  
U.S. Customs & Border Protection

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26  
27  
28

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 94 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 767-50 Filed 09/30/21 PageID.67284 Page 3 of 5

**From:** PROVENCIO, RAY  
**Sent:** Thursday, May 24, 2018 3:50 PM  
**To:** HOWE, RANDY J  
**CC:** MANCHA, HECTOR  
**Subject:** RE: Info needed by 1600

10-4.

*Ray Provencio*  
 Assistant Director of Field Operations  
 Office of Field Operations – El Paso Field Office  
 U.S. Customs and Border Protection  
 [REDACTED]




---

**From:** HOWE, RANDY J  
**Sent:** Thursday, May 24, 2018 1:48 PM  
**To:** PROVENCIO, RAY <[REDACTED]>  
**Cc:** MANCHA, HECTOR <[REDACTED]>  
**Subject:** RE: Info needed by 1600

We reduced your estimate for this exercise to 84 CBPOs.

EAC pointed out that once vehicles and busses cross the boundary line we will not be removing migrants from vehicles and having them walk back to Mexico.

Once they cross the border they are in the US and are ours to process.

Call me if you would like to discuss.

Randy J. Howe  
 Executive Director, Operations  
 Office of Field Operations  
 U.S. Customs and Border Protection  
 [REDACTED]

---

**From:** PROVENCIO, RAY  
**Sent:** Thursday, May 24, 2018 1:41 PM  
**To:** HOWE, RANDY J <[REDACTED]>  
**Cc:** MANCHA, HECTOR <[REDACTED]>  
**Subject:** FW: Info needed by 1600  
**Importance:** High

Based on the request and absent unforeseen challenges (e.g. protests, riots, rushing the border, entering via commercial facilities, etc.), the below is a general estimate of what would be needed each shift, per location:

	Mid	Day	Eve	Total
<u><b>Port of El Paso</b></u>				
PDN	10	10	10	30
BOA	10	10	10	30
YSL	10	10	10	30
				<b>90</b>

<u><b>Port of Santa Teresa</b></u>				
	0	6	6	<b>12</b>

**Port of Tornillo**

Highly Confidential/Attorneys' Eyes Only

AOL-DEF-00095574



	0	6	6	12
<u>Port of Ft. Hancock</u>				
	0	2	2	4
<u>Port of Columbus</u>				
	6	6	6	18
<u>Port of Antelope Wells</u>				
	0	2	0	2
<u>Port of Presidio</u>				
	6	6	6	18
<u>Port of Albuquerque</u>				
	n/a	n/a	n/a	0

EPFO Total **156**

The attached power point provides a bit more detail regarding each crossing. Based on the current trend regarding inadmissible aliens and/or those requesting CF, we can anticipate a 60% reduction (i.e. those turned away) in those processed; which, based on previous capacity numbers [REDACTED] we could anticipate 234 turned away per day. We generated that number by taking a snapshot of the busiest port (El Paso), using April 22-25 and comparing it to May 20-23, 2018.

*Ray Provencio*  
 Assistant Director of Field Operations  
 Office of Field Operations – El Paso Field Office  
 U.S. Customs and Border Protection  
 [REDACTED]



**From:** HOWE, RANDY J  
**Sent:** Thursday, May 24, 2018 11:08 AM  
**To:** FLORES, PETE ROMERO <[REDACTED]>; MARICICH, ANNE L <[REDACTED]>; RAMIREZ, GUADALUPE H <[REDACTED]>; MANCHA, HECTOR <[REDACTED]>; PROVENCIO, RAY <[REDACTED]>; HIGGERSON, DAVID P <[REDACTED]>; SKINNER, BRADD M. <[REDACTED]>  
**Cc:** CAMPBELL, CARL S <[REDACTED]>  
**Subject:** FW: Info needed by 1600  
**Importance:** High

DFOs: See EAC request below for a Secretary meeting today. Any questions please call me.

Randy J. Howe  
 Executive Director, Operations  
 Office of Field Operations  
 U.S. Customs and Border Protection  
 [REDACTED]

**From:** Owen, Todd C (AC OFO)  
**Sent:** Thursday, May 24, 2018 12:59 PM  
**To:** HOWE, RANDY J <[REDACTED]>; CAMPBELL, CARL S <[REDACTED]>  
**Cc:** BORDEAUX, TYESHA <[REDACTED]>  
**Subject:** Info needed by 1600  
**Importance:** High

Randy/Shane,

- For an S1 meeting this afternoon, S1's office is asking if we fully implement the priority based Que Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day?

Can you please contact the 4 SWB DFOs and get a very rough estimate by field office?

Thank you.

*Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations  
U.S. Customs & Border Protection*

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26  
27

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 95 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

28 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 767-51 Filed 09/30/21 PageID.67289 Page 3 of 3

**From:** RAMIREZ, GUADALUPE H  
**Sent:** Thursday, May 24, 2018 2:31 PM  
**To:** HOWE, RANDY J  
**Subject:** RE: Info needed by 1600

Sir,

The Tucson Field Office would require approximately 44 CBPOs per day to man the border line. If current volumes remain consistent we would be turning back roughly 65 a day, about 40 in Nogales and 25 at San Luis I.

Lupe

---

**From:** HOWE, RANDY J  
**Sent:** Thursday, May 24, 2018 10:08 AM  
**To:** FLORES, PETE ROMERO <[REDACTED]>; MARICICH, ANNE I <[REDACTED]>; RAMIREZ, GUADALUPE H <[REDACTED]>; MANCHA, HECTOR <[REDACTED]>; PROVENCIO, RAY <[REDACTED]>; HIGGERSON, DAVID P <[REDACTED]>; SKINNER, BRADD M. <[REDACTED]>  
**Cc:** CAMPBELL, CARL S <CARL.S.CAMPBELL@cbp.dhs.gov>  
**Subject:** FW: Info needed by 1600  
**Importance:** High

DFOs: See EAC request below for a Secretary meeting today. Any questions please call me.

Randy J. Howe  
Executive Director, Operations  
Office of Field Operations  
U.S. Customs and Border Protection  
[REDACTED]

---

**From:** Owen, Todd C (AC OFO)  
**Sent:** Thursday, May 24, 2018 12:59 PM  
**To:** HOWE, RANDY J <[REDACTED]>; CAMPBELL, CARL S <[REDACTED]>  
**Cc:** BORDEAUX, TYESHA <[REDACTED]>  
**Subject:** Info needed by 1600  
**Importance:** High

Randy/Shane,

- For an S1 meeting this afternoon, S1's office is asking if we fully implement the priority based Que Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day?

Can you please contact the 4 SWB DFOs and get a very rough estimate by field office?

Thank you.

Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations  
U.S. Customs & Border Protection

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

10 SOUTHERN POVERTY LAW CENTER  
Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 22 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION TO  
EXCLUDE DEFENDANTS'  
PURPORTED EXPERT  
TESTIMONY**

**EXHIBIT 96 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM  
OF POINTS AND AUTHORITIES  
IN SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).



CENTER FOR CONSTITUTIONAL RIGHTS

Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

[bazmy@ccrjustice.org](mailto:bazmy@ccrjustice.org)

Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

[gschwarz@ccrjustice.org](mailto:gschwarz@ccrjustice.org)

Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

[aguisado@ccrjustice.org](mailto:aguisado@ccrjustice.org)

666 Broadway, 7th Floor

New York, NY 10012

Telephone: +1.212.614.6464

Facsimile: +1.212.614.6499

SOUTHERN POVERTY LAW CENTER

Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

[sarah.rich@splcenter.org](mailto:sarah.rich@splcenter.org)

Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

[rebecca.cassler@splcenter.org](mailto:rebecca.cassler@splcenter.org)

150 E. Ponce de Leon Ave., Suite 340

Decatur, GA 30030

Telephone: +1.404.521.6700

Facsimile: +1.404.221.5857

AMERICAN IMMIGRATION COUNCIL

Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

[kwalters@immcouncil.org](mailto:kwalters@immcouncil.org)

1331 G St. NW, Suite 200

Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 767-4 Filed 09/30/21 PageID.67044 Page 3 of 4

**From:** MCALEENAN, KEVIN K  
**Sent:** Thursday, May 24, 2018 4:09 PM  
**To:** Owen, Todd C (AC OFO); FLANAGAN, PATRICK S  
**CC:** VITIELLO, RONALD D (USBP); WAGNER, JOHN P; SCHORR, STEPHEN; BOYD, VALERIE S; BORDEAUX, TYESHA  
**Subject:** RE: Today's Meeting - A few items

Please let the S1 know today

---

**From:** Owen, Todd C (AC OFO)  
**Sent:** Thursday, May 24, 2018 3:48:02 PM  
**To:** FLANAGAN, PATRICK S  
**Cc:** MCALEENAN, KEVIN K; VITIELLO, RONALD D (USBP); WAGNER, JOHN P; SCHORR, STEPHEN; BOYD, VALERIE S; BORDEAUX, TYESHA  
**Subject:** RE: Today's Meeting - A few items

Patrick,

We estimate that it would take approx. 200 officers per day to adequately secure the boundary line, and we would turn away approx. 650 subjects a day. The number waiting in MX would grow each day and begin to strain those local MX border communities, as we saw with the Haitians in Tijuana in 2016.

*Todd C. Owen  
Executive Assistant Commissioner  
Office of Field Operations  
U.S. Customs & Border Protection*

---

**From:** FLANAGAN, PATRICK S  
**Sent:** Thursday, May 24, 2018 12:55 PM  
**To:** Owen, Todd C (AC OFO) <TODD.OWEN@CBP.DHS.GOV>  
**Cc:** MCALEENAN, KEVIN K <[REDACTED]>; VITIELLO, RONALD D (USBP) <[REDACTED]>; WAGNER, JOHN P <[REDACTED]>; SCHORR, STEPHEN <[REDACTED]>; BOYD, VALERIE S <[REDACTED]>; BORDEAUX, TYESHA <[REDACTED]>  
**Subject:** FW: Today's Meeting - A few items

EAC,

Valerie will update the language in the S1 memo. As we discussed, we will amend the memo to reflect this effort will initiate under a 30 day pilot, and S1 will reassess at the 30 day mark.

Photos you are taking care of, and will bring to the meeting.

Do you have an estimate for his third question? On the necessary manpower for queue management?

Thank you.

V/R  
Patrick

Patrick Flanagan  
[REDACTED]

Notice: FOR OFFICIAL USE ONLY - this transmission contains material covered by the Privacy Act of 1974 and should be viewed only by personnel having an official "need to know." If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the content of this information is prohibited. If you have received this communication in error, please notify me immediately by email and delete the original message.

---

**From:** Wolf, Chad  
**Sent:** Thursday, May 24, 2018 12:22 PM  
**To:** FLANAGAN, PATRICK S <[REDACTED]>  
**Cc:** MCALEENAN, KEVIN K <[REDACTED]>  
**Subject:** Today's Meeting - A few items

Patrick,

A couple of items –

- Need to amend the S1 memo on POE to include 30 day pilot language.
- Photos for today's meeting
- If we implement the Queue Management option – what's a rough magnitude of CBP folks that will be needed to man the boundary line? What's a rough estimate of the number of folks that would likely be turned away per day during the pilot period?

I'll be at the RRB at 2pm. Would like to review these at that point. Thanks.

Case 3:17-cv-02366-BAS-KSC Document 767-4 Filed 09/30/21 PageID.67045 Page 4 of 4

Chad F. Wolf  
Chief of Staff  
Department of Homeland Security



Highly Confidential/Attorneys' Eyes Only

AOL-DEF-00288010

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 99 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

25  
26  
27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

---

**From:** LONGORIA, FRANK S  
**Sent:** Friday, July 6, 2018 4:00 PM  
**To:** CHAVEZ, JUAN; FLORES, ALBERTO A; GONZALEZ, DAVID JOHN; GUERRA, ANDRES; MERCADO, DANIEL; ORTIZ, TATER; RODRIGUEZ, CARLOS; WEAVER, WALTER W; CANTU, JAVIER N; GALVAN, JORGE; PARKER, BOB B; SULLIVAN, JOHN D  
**Cc:** HIGGERSON, DAVID P; SKINNER, BRADD M.; CRAWFORD, EUGENE E; TABOADA, ARMANDO; HARRIS, RODNEY H  
**Subject:** Queue Management: 30 Days In

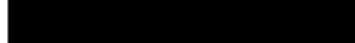
Port Directors:

It's been approximately 30 days since we initiated the Queue Management Strategy and shifted from "detention" capacity to "operational" capacity. We'll need to provide OFO an assessment in the very near future on the impact the strategy has had at LFO ports of entry. Therefore, please provide a response to each of the items below by COB Monday, July 9, 2018.

1. Identify each international crossing you are conducting Queue Management at.
2. Are you assigning officers at your Queue Management point(s) 24/7?
3. Regarding processing undocumented aliens based on operational capacity:
  - a. How many officers assigned to passport control were reassigned to enforcement operations on a daily basis?
  - b. Any enforcement actions directly linked to the reassignment of passport control officer to enforcement operations? If yes, provide a brief summary of the enforcement action.
4. Has your overtime expenditures increased/decreased? If yes, how much?
5. Any national security achievements?
6. Any other measureable impact (positive or negative) to your operations?

We'll compile your responses and provide an overall LFO assessment. It's critical that you provide an honest assessment on the impact (good or bad) the Queue Management Strategy has had to your operations.

Please call me at the numbers indicated below if you have any questions.

Frank S. Longoria  
Assistant Director Field Operations  
Office of Field Operations  
Laredo Field Office  






1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 103 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

**REDACTED VERSION**

25  
26  
27  
28 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Page 1

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

AL OTRO LADO, INC, ET AL.    )  
  )  
  ) CIVIL ACTION NO.  
VS.                                ) 17-CV-02366-BAS-KSC  
  )  
KEVIN K. MCALEENAN, ET AL.    )

-----  
VIDEOTAPED DEPOSITION OF  
STEPHANIE LEUTERT  
AUGUST 11, 2020  
DEPOSITION VIA WEBEX  
-----

ANSWERS AND DEPOSITION OF STEPHANIE  
LEUTERT, produced as a witness at the instance of  
the Defendant, taken in the above-styled and  
-numbered cause on AUGUST 11, 2020, at 10:37 a.m.,  
before CHARIS M. HENDRICK, a Certified Shorthand  
Reporter in and for the State of Texas, witness  
located in the city of Austin, County of Travis and  
State of Texas, in accordance with the Federal  
Rules of Civil Procedure and the provisions stated  
on the record or attached hereto.



A P P E A R A N C E S

FOR THE PLAINTIFFS:

MR. STEPHEN M. MEDLOCK  
MAYER BROWN  
1999 K Street, N.W.  
Washington, District of Columbia 20006  
(202) 263-3221  
smedlock@mayerbrown.com

MS. REBECCA CASSLER  
SOUTHERN POVERTY LAW CENTER  
400 Washington Avenue  
Montgomery, Alabama 36104  
(678) 954-4996  
rebecca.cassler@splcenter.org

MR. ANGELO GUISADO  
CENTER FOR CONSTITUTIONAL RIGHTS  
666 Broadway, 7th Floor  
New York, New York 10012  
(212) 614-6464  
aguisado@ccrjustice.org

FOR THE DEFENDANTS:

MR. ARI NAZAROV  
MR. ALEXANDER HALASKA  
MR. DHRUMAN SAMPAT  
U.S. DEPARTMENT OF JUSTICE  
OFFICE OF IMMIGRATION LITIGATION  
Ben Franklin Square, P.O. Box 868  
Washington, District of Columbia 20044  
(202) 598-8259  
ari.nazarov@usdoj.gov  
alexander.j.halaska@usdoj.gov

ALSO PRESENT: MR. JOSH PINKUS - VIDEOGRAPHER



1	INDEX	
2	Appearances .....	2
3	STEPHANIE LEUTERT	
4	Examination by Mr. Nazarov.....	5
5		
6	Signature and Changes.....	67
7	Reporter's Certificate.....	69
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		



1 Q. (By Mr. Nazarov) Okay. So the data you  
2 had on counter-narcotics programs and staffing  
3 decisions related to counter-narcotics programs,  
4 you did not use that data; is that correct?

5 MR. MEDLOCK: Objection. Asked and  
6 answered, misstates prior testimony, vague.

7 A. I considered that data, the data that I  
8 had that included elements of what you are saying.  
9 I just -- I chose not to use it because it wasn't  
10 useful in answering the questions I was asked to  
11 answer.

12 Q. (By Mr. Nazarov) Is the methodology you  
13 employed able to demonstrate and consider resources  
14 of staffing that may be needed to be allocated to  
15 run counter-narcotics operations?

16 MR. MEDLOCK: Objection. Asked and  
17 answered, vague, compound.

18 A. Again, I considered data related to some  
19 of the elements of what you're saying, but I was  
20 unable to use it because it did not allow me to  
21 answer the questions I was asked to answer.

22 Q. (By Mr. Nazarov) And that's a fair  
23 answer.

24 Is the methodology you employed in  
25 your merits report able to demonstrate how staffing

1 and resources are made by OFO to protect economic  
2 security?

3 And let me define economic security  
4 for you. You probably know it, but I will just  
5 throw it out there. It's trade and cargo  
6 processing, enforcing trade laws, protecting  
7 agriculture and addressing anti-competitive  
8 elements in the supply chain.

9 MR. MEDLOCK: Object to the form.  
10 Asked and answered.

11 A. I, again, looked at data relating to the  
12 elements of what you just said. I was unable to  
13 include it in the report because it did not allow  
14 me to answer the questions I was asked to answer.

15 Q. (By Mr. Nazarov) Is the methodology you  
16 employed in your report able to evaluate how  
17 staffing and resources are allocated to facilitate  
18 trade and travel facilitation?

19 MR. MEDLOCK: Object to the form,  
20 vague, asked and answered.

21 A. Again, I considered this data -- these  
22 data sources. I even tried to build a model that  
23 could include it all. I was unable to do so. And  
24 I did not find that it allowed me to answer the  
25 questions that I wanted to answer because CBP does



1 not collect these type of data in a way that allows  
2 you to answer questions relating to metering at  
3 ports of entry in asylum processing.

4 Q. (By Mr. Nazarov) You have to agree that  
5 neutralizing national security threats and running  
6 counter-narcotics operations are an important  
7 part -- a critical part of the CBP mission?

8 MR. MEDLOCK: Objection. Form, vague.

9 A. Correct.

10 MR. MEDLOCK: Also compound.

11 A. Correct.

12 Q. (By Mr. Nazarov) I'm sorry. I didn't  
13 hear the answer.

14 A. Correct.

15 Q. You would have to agree that economic  
16 security and trade and travel facilitation are also  
17 critical to the larger border missions?

18 MR. MEDLOCK: Objection. Form,  
19 compound, vague.

20 A. Correct.

21 Q. (By Mr. Nazarov) So, really, in answering  
22 the question that you were set out to answer, this  
23 methodology only focuses on the small sliver of  
24 what goes on at a port of entry; is that correct?

25 MR. MEDLOCK: Objection. Asked and



1 answered, misstates prior testimony, vague.

2 A. My focus is understanding metering at  
3 ports of entry along the US-Mexico border. In  
4 doing so, I used the only data source that allows  
5 me to get that picture. It is also the only data  
6 source that CBP collects to provide an  
7 understanding of metering and the one that CBP  
8 leadership uses to get a sense of metering in ports  
9 of entry.

10 That is ultimately why I used it. I  
11 did consider these other data sources. I was  
12 interested to see if there was a way that I could  
13 reconstruct what was going on. I wasn't able to do  
14 that, and I later learned that CBP in this sixth  
15 interrogatory also noted that they could not  
16 reconstruct what was going on at a port of entry at  
17 any given time.

18 And with that, I went back to using  
19 the data that CBP uses to look at metering, and  
20 that's how I constructed and wrote my report.

21 Q. (By Mr. Nazarov) In your data, in your  
22 conclusions are focused only on the processing of  
23 asylum-seekers; is that correct?

24 A. Yes, it focuses on the processing of  
25 asylum-seekers.



1 Q. I want to take a look -- I want to go to  
2 your report, and I have a few questions about that.

3 A. Okay.

4 Q. I want to --

5 MR. MEDLOCK: Which report are you  
6 referring to, Ari? I just want to make sure.

7 MR. NAZAROV: Yes. That makes a lot  
8 of sense. I'm referring to Exhibit A, which is  
9 your merits report.

10 Q. (By Mr. Nazarov) I want to go back and  
11 look at Page 73. That is Section F, titled  
12 Operational Capacity Does Not Justify the Turn-Back  
13 Policy. Do you see that?

14 A. Yes.

15 Q. Do you want to take a minute to read over  
16 that, or can I go ahead and -- why don't I ask the  
17 question, and if you think you need to read over  
18 it, then you may take the time to do so.

19 If the judge in this case disagrees  
20 with your conclusion and finds that operational  
21 capacity is a legitimate explanation, how does that  
22 affect your conclusion for the report?

23 MR. MEDLOCK: Objection. Incomplete  
24 hypothetical, calls for a legal conclusion and  
25 vague.



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 104 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

25  
26  
27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).



1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

---

**From:** SKINNER, BRADD M.  
**Sent:** Friday, July 6, 2018 7:35 PM  
**To:** HIGGERSON, DAVID P  
**Subject:** FW: Metrics Reminder

Sir, just fyi I spoke w/ Ryan Koseor earlier today and he relayed HQ standing down for now on developing the queue management metrics, good news. The reference to the 30 day strategy in his message relates to the focus on priority mission sets and queue management which as I understand it has come and gone now. The view is that we s/b processing up to 70% of detention / holding capacity depending upon what is coming at us on any given day. ADFO Longoria is asking the PD's for an update on queue management and what is trending at the ports, will discuss further with you on Monday.... Had a good discussion with Brownsville to prep for the Congressional visit on Monday; they will follow a very similar flow to Hidalgo tours with show and tell displays available at different stations; Tater knows to keep it pithy and on point. ... Busy day but all to the good. V/r, Bradd

Bradd Skinner  
Deputy Director  
Laredo Field Office  
Office of Field Operations  
U.S. Customs and Border Protection  
Office: [REDACTED]  
Cell: [REDACTED]

---

**From:** KOSEOR, RYAN M  
**Sent:** Friday, July 6, 2018 1:17 PM  
**To:** SKINNER, BRADD M. <[REDACTED]>; ARMIJO, JOHNNY L <[REDACTED]>  
**Subject:** FW: Metrics Reminder

Good Afternoon,

Here is the email I sent to the DFOs this morning.

Thanks,

*Ryan Koseor*  
*Deputy Commander*  
*U.S. Customs and Border Protection*  
*Migration Crisis Action Team (MCAT)*  
Cell: [REDACTED]  
MCAT: [REDACTED]

---

**From:** KOSEOR, RYAN M  
**Sent:** Friday, July 6, 2018 10:24 AM

Case 3:17-cv-02366-BAS-KSC Document 767-55 Filed 09/30/21 PageID.67316 Page 4 of 5

**To:** PETE ROMERO FLORES ([REDACTED]); ANNE L MARICICH ([REDACTED]); RAMIREZ, GUADALUPE H ([REDACTED]); MANCHA, HECTOR ([REDACTED]); HIGGERSON, DAVID P ([REDACTED])  
**Subject:** RE: Metrics Reminder

All,

Since the ports were not able to fully implement this strategy for the entire 30 days, this request has been placed on hold. I will be following up with XD Howe upon his return for further guidance.

Thanks,

*Ryan Koseor*  
*Deputy Commander*  
*U.S. Customs and Border Protection*  
*Migration Crisis Action Team (MCAT)*  
*Cell:* [REDACTED]  
*MCAT:* [REDACTED]

---

**From:** KOSEOR, RYAN M  
**Sent:** Thursday, July 5, 2018 3:27 PM  
**To:** PETE ROMERO FLORES ([REDACTED]); ANNE L MARICICH ([REDACTED]); RAMIREZ, GUADALUPE H ([REDACTED]); MANCHA, HECTOR ([REDACTED]); HIGGERSON, DAVID P ([REDACTED])  
**Subject:** Metrics Reminder

Good Afternoon,

I hope everyone had a safe and pleasant holiday. Just wanted to send a friendly reminder about the reporting metrics each field office is to establish. Although the final report is not due until July 18<sup>th</sup>, please have your team contact me if they have any questions or need some guidance.

Thanks,

*Ryan Koseor*  
*Deputy Commander*  
*U.S. Customs and Border Protection*  
*Migration Crisis Action Team (MCAT)*  
*Cell:* [REDACTED]  
*MCAT:* [REDACTED]

---

**From:** HOWE, RANDY J  
**Sent:** Monday, June 18, 2018 2:40 PM  
**To:** FLORES, PETE ROMERO <[REDACTED]> MARICICH, ANNE L  
[REDACTED] RAMIREZ, GUADALUPE H <[REDACTED]> MANCHA,  
HECTOR <[REDACTED]> HIGGERS, DAVID P <[REDACTED]>  
**Cc:** DRAGANAC, JOSEPH <[REDACTED]> CAMPBELL, CARL S <[REDACTED]>  
**Subject:**

DFOs: Please establish some metrics applicable to your AOR...narcotics interdictions, reductions in wait times, OT savings, other cost savings, national security achievements and any other measureable impact. Any questions please call me.

Randy J. Howe  
Executive Director, Operations  
Office of Field Operations  
U.S. Customs and Border Protection  
[REDACTED] (Office)  
[REDACTED] (Cell)

1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,

19 Plaintiffs,

20 v.

21 Chad F. Wolf,<sup>112</sup> *et al.*,

22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 113 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>112</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

CENTER FOR CONSTITUTIONAL RIGHTS

Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

*bazmy@ccrjustice.org*

Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

*gschwarz@ccrjustice.org*

Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

*aguisado@ccrjustice.org*

666 Broadway, 7th Floor

New York, NY 10012

Telephone: +1.212.614.6464

Facsimile: +1.212.614.6499

SOUTHERN POVERTY LAW CENTER

Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

*sarah.rich@splcenter.org*

Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

*rebecca.cassler@splcenter.org*

150 E. Ponce de Leon Ave., Suite 340

Decatur, GA 30030

Telephone: +1.404.521.6700

Facsimile: +1.404.221.5857

AMERICAN IMMIGRATION COUNCIL

Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

*kwalters@immcouncil.org*

1331 G St. NW, Suite 200

Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



Page 1

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
(San Diego)

AL OTRO LADO, INC., ET AL., )  
 )  
 Plaintiffs, )  
 )  
 vs. ) CASE NO.  
 ) 3:17-cv-02366-BAS-KSC  
 CHAD F. WOLF, Acting )  
 Secretary of Homeland )  
 Security, in his official )  
 capacity, et al., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

VIDEO-RECORDED VIRTUAL DEPOSITION OF  
ERIKA DACRUZ PINHEIRO  
TIJUANA, MEXICO  
THURSDAY, JUNE 18, 2020

STENOGRAPHICALLY REPORTED BY:

Valerie C. Rodriguez  
CSR No. 12871 (orig 6980)



1 UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
3 (San Diego)  
4 AL OTRO LADO, INC., ET AL., )  
5 )  
6 Plaintiff, )  
7 )  
8 vs. ) CASE NO.  
9 ) 3:17-cv-02366-BAS-KSC  
10 CHAD F. WOLF, Acting )  
11 Secretary of Homeland )  
12 Security, in his official )  
13 capacity, et al., )  
14 )  
15 Defendants. )  
16 \_\_\_\_\_ )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

VIDEO-RECORDED VIRTUAL DEPOSITION OF ERIKA DACRUZ  
PINHEIRO, TAKEN ON BEHALF OF THE DEFENDANTS,  
TIJUANA, MEXICO, COMMENCING AT 9:03 a.m. AND ENDING  
AT 3:37 p.m. ON THURSDAY, JUNE 18, 2020, BEFORE  
VALERIE C. RODRIGUEZ, CERTIFIED SHORTHAND REPORTER  
NO. 12871 (ORIGINALLY 6980).

1 APPEARANCES:

2

FOR PLAINTIFF AL OTRO LADO, INC., ET AL.:

3

MAYER BROWN

4

BY: MICHELLE WEBSTER, ESQ.

1999 K STREET N.W.

5

WASHINGTON, DC 20006

202.263.3221

6

MWEBSTER@MAYERBROWN.COM

VIA WEBEX

7

8

FOR DEFENDANT CHAD F. WOLF,  
ACTING SECRETARY OF HOMELAND SECURITY,  
IN HIS OFFICIAL CAPACITY, ET AL.:

9

10 UNITED STATES DEPARTMENT OF JUSTICE  
CIVIL DIVISION

11

OFFICE OF IMMIGRATION LITIGATION

BY: ALEXANDER J. HALASKA, ESQ.

12

P.O. BOX 868

BEN FRANKLIN STATION

13

WASHINGTON, DC 20044

202.307.8704

14

ALEXANDER.J.HALASKA@USDOJ.GOV

VIA WEBEX

15

16

FOR DEFENDANT

17

SOUTHERN POVERTY LAW CENTER

BY: MELISSA CROW, ESQ.

18

1101 17TH STREET, N.W.

SUITE 705

19

WASHINGTON, D.C. 20036

202.355.4471

20

MELISSA.CROW@SPLCENTER.ORG

VIA WEBEX

21

22

ALSO PRESENT:

23

SOL TRAN, VIDEO TECHNICIAN

KEVIN CRANFORD, MAGNA TECH

24

25

Page 4

1 INDEX TO DEPOSITION OF ERIKA DACRUZ PINHEIRO  
2 JUNE 18, 2020  
3

4 EXAMINATION BY MR. HALASKA 6  
5

6 EXHIBITS

7 MARKED	DESCRIPTION	PAGE
8 Exhibit 1	AOL 30(b)(6), Notice of Deposition	14
9 Exhibit 2	Email dated 11/28/17	61
10 Exhibit 3	Return of organization exempt from income tax for 2017	71
11 Exhibit 4	Series of emails	96
12 Exhibit 5	Email thread	138
13 Exhibit 6	Second Amended Complaint	157
14 Exhibit 7	2016 Tax Return, one page only	160

16

17

INFORMATION REQUESTED: (None)

18

19 DIRECTIONS NOT TO ANSWER: (None)

20

21

22

23

24

25

Page 89

1 THE MAGNA TECH: It's the call-in line  
2 number. Folks on the call-in lines, you have to  
3 mute your conference phone.

4 We can still hear it.

5 Sol, I believe you're able to as host --

6 MS. WALTERS: I think I know who it is.  
7 I'll send a text.

8 THE MAGNA TECH: Sol, you might be able  
9 to mute them also because you're host.

10 THE VIDEOGRAPHER: I just muted both  
11 call-in users.

12 THE WITNESS: I can't hear. Sorry, Alex,  
13 if you can just repeat that one more time.

14 MR. HALASKA: Yeah, let me ask it again  
15 just to account for the conference.

16 BY MR. HALASKA:

17 Q In 2017, when the medical/legal program  
18 began, approximately how much of Al Otro Lado's  
19 attorney or staff hours were dedicated to  
20 implementing a program?

21 A God, so many hours, but not enough to do  
22 it. Not enough -- we didn't have enough time to  
23 properly implement it because metering, basically,  
24 because we -- like, I just want to go back to  
25 another answer I had given when I talked about the



1 difficulties of transitioning our programs in  
2 Tijuana to address turnbacks and later metering.

3 And it was unfortunate that we were  
4 unable to effectively implement the medical/legal  
5 program, given staffing and resource constraints  
6 because of the demands that were caused by turnbacks  
7 on the border.

8 But I mean, it was -- I spent a lot of  
9 time trying to set that program up. Hours. I don't  
10 even know. Let me think. I mean, it was a lot.  
11 Like meetings and trying to set up the office and  
12 talking to funders and applying for funding. Oh,  
13 God, a million stakeholder meetings with the other  
14 people on the Robert Wood Johnson Grant. Just a  
15 lot.

16 One of us tried to be there every day to  
17 try to set it up, but it just wasn't possible. And  
18 it's difficult now thinking back because it was  
19 several years ago to really give like a number of  
20 hours.

21 But more broadly, when we established it,  
22 it was me and Nora in LA, right, working on it. But  
23 we were both going down to TJ, especially I was  
24 going down more often.

25 Then we eventually hired -- when we got



1 the Robert Wood Johnson Grant, eventually hired  
2 another person that was working on it full-time.  
3 That was Ricardo. But...

4 Yeah, it's hard to -- I can't -- it's  
5 really hard for me to give an estimate of like  
6 number of hours. I can just describe sort of what I  
7 just described.

8 Q Okay. Today, do you feel like Al Otro  
9 Lado has a greater capacity to implement its  
10 medical/legal program than it did back in 2017 when  
11 it began?

12 MS. WEBSTER: Objection, foundation.

13 MR. HALASKA: You can go ahead and  
14 answer.

15 THE WITNESS: Can you repeat the  
16 question?

17 MR. HALASKA: Yeah, sure. Well,  
18 actually, can you just read it back.

19 (The following question was re-read:  
20 "Today, do you feel like Al Otro Lado has  
21 a greater capacity to implement its  
22 medical/legal program than it did back in  
23 2017 when it began?")

24 THE WITNESS: It's hard to compare the  
25 program in 2017 to what it is now, because we

1 actually lost the first funding source because we  
2 weren't able, we didn't have capacity to properly  
3 implement it, so the Robert Wood Johnson Grant that  
4 I referenced earlier. And then had to obtain  
5 separate funding to try to continue -- to fulfill  
6 our mission in Los Angeles as related to the  
7 medical/legal program.

8 So the program has changed over time, and  
9 the funding sources are different. So I think it's  
10 difficult to compare the two.

11 BY MR. HALASKA:

12 Q You said that in 2017, it seemed that Al  
13 Otro Lado's work in response to address metering  
14 kind of took away from its ability to implement its  
15 medical/legal program.

16 Is that a fair characterization?

17 A Yes.

18 Q Is that still happening today -- sorry,  
19 let me ask it a different way.

20 Do you still feel the same way today with  
21 regard to metering --

22 A Yes.

23 Q -- and the implementation of the  
24 medical/legal program?

25 A Yes, continues to be a struggle.

1 Q Why is that?

2 A The volume of migrants who have been  
3 metered specifically in Tijuana is, I believe,  
4 hovering somewhere around 10,000. And it's been  
5 that way for a while.

6 We are constantly having to pull  
7 resources from our other offices to address the  
8 needs of particularly vulnerable migrants who have  
9 been metered. Specifically those who are in  
10 imminent danger of harm or death in Tijuana.

11 Those by definition are emergency  
12 situations that constantly -- it's difficult to plan  
13 for them. So we're constantly having to shift  
14 resources around to address those emergency  
15 situations.

16 I think also just, in terms of the  
17 organizational capacity to even ask for grants to  
18 support certain programs, you know, we have a  
19 limited capacity to do that. And because of the  
20 volume of work on the border, we necessarily need to  
21 shift resources toward trying to get funding to  
22 support it.

23 And the other, just a more foundational  
24 issue is like, there are other non-profits in  
25 Los Angeles who we collaborate -- with whom we

1 collaborate to assist our clients in Los Angeles.  
2 And we don't -- that doesn't really exist in  
3 Tijuana. We're -- now there are more organizations  
4 here, but we're essentially the only organization  
5 offering the types of services we do and dealing  
6 with these emergencies that come up with respect to  
7 Asylum seekers who have been metered.

8           So it's sort of like easier, I guess, in  
9 a way, to find somebody else to help the people that  
10 we would serve under the medical/legal program in  
11 Los Angeles. And so that -- we don't have that  
12 luxury in Tijuana. So we have no choice but to  
13 divert different resources to address emergency  
14 situations.

15           Q       What sorts -- let me go back. You said  
16 that the organization is diverting resources from  
17 other programs to dedicate to its Tijuana  
18 operations; right?

19           A       Yes.

20           Q       Where are those resources being pulled  
21 from?

22           A       So our -- it's staff resources more than  
23 anything. So we -- like I mentioned earlier, we  
24 have employees based in San Diego or Los Angeles  
25 working on these other programs. And we will often

1 have to pull in staff to address emergency or other  
2 situations, even if we're just having a large-scale  
3 clinic, to help with cases of individuals who have  
4 been metered. It becomes more urgent when they're  
5 in imminent risk of harm or even like serious  
6 medical cases.

7 So for example, like we in the  
8 Los Angeles office built a particular expertise in  
9 working with clients through the medical/legal  
10 program who are experiencing medical emergencies or  
11 mental health crises or some other disability that  
12 affects their ability to communicate their rights.

13 We are also encountering individuals who  
14 fall into those categories who have been metered.  
15 So we would ask individuals who have that expertise  
16 from working in the LA programs to assist with  
17 following who have been metered who are facing  
18 similar medical challenges, if that makes sense.

19 Again, organizational orientation  
20 overall, just the volume -- I mean, again, I think  
21 it's around 10,000 people who are waiting in Tijuana  
22 alone here on the list. It might be a little bit  
23 lower. I haven't seen the exact numbers, but on  
24 average, it's been around 10,000 for a while.

25 The sheer volume of cases we're seeing,

1 it's really like we're identifying hundreds of  
2 people who are particularly vulnerable. So it's  
3 just a constant battle to try to meet those needs  
4 with limited, limited resources in the organization.

5 MR. HALASKA: Kevin, can you please pull  
6 up the document, 22830.

7 MR. HALASKA: Ms. Pinheiro, this document  
8 is about 25 pages. You're, of course, free to  
9 review the entire thing, but I'll represent to you  
10 that the scope of my questions are really just going  
11 to be about kind of the last three pages.

12 THE WITNESS: Okay.

13 MR. HALASKA: We'll mark this as  
14 Exhibit 4.

15 (Pinheiro Exhibit 4 was marked for  
16 identification.)

17 (Document review.)

18 MS. WEBSTER: Alex, we did not receive  
19 this document.

20 MR. HALASKA: I will email it to you.

21 MS. WEBSTER: In the box folder.

22 Thank you.

23 (Continued document review.)

24 MS. WEBSTER: We have not received it  
25 yet.

1 several of the responses I had previously given  
2 regarding the need for us to divert resources away  
3 from other programming, toward our work at the  
4 borders, so they could address the issues caused by  
5 the Turnback Policy and other unlawful practices.

6 BY MR. HALASKA:

7 Q Anything else?

8 A I mean, it's -- I think that's a summary.

9 Q Is there anything else you would want to  
10 include in the summary?

11 A Well, I can reiterate or touch upon some  
12 of the answers I had given previously. Would you  
13 like me to do that?

14 Q Please.

15 A All right. Well, at the beginning of the  
16 Turnback Policy, we had to transition our programs  
17 from largely group orientation format toward more  
18 individualized representation, which required  
19 significant investment of staff time and other  
20 resources in transitioning our materials, creating  
21 an entirely new volunteer recruitment and training  
22 system, investing in case management so we could  
23 track individual cases, changing client-facing  
24 materials, et cetera, et cetera.

25 And then just, when someone is turned



1 back and they are at imminent risk of being harmed  
2 or killed in Tijuana, it really requires us to  
3 respond in an emergency fashion by, in accordance  
4 with our organizational mission, providing and  
5 coordinating other types of services like emergency  
6 housing or social services for folks that are stuck  
7 in Tijuana.

8 It's continued to be a strain on our  
9 organizational resources due to those issues,  
10 especially the emergency issues that come up with  
11 folks who have been metered. It's also posed an  
12 enormous challenge recruiting volunteers, willing  
13 and able to work longer term on cases of individuals  
14 who have been metered or turned back and are stuck  
15 in Tijuana.

16 Yeah, there's a host of issues just like  
17 that. And then the resources that have to go into  
18 documentation, because as you know, there was never  
19 really, especially at the beginning, a formal policy  
20 or practice change announced. This is something  
21 that we learned through monitoring, through  
22 interviewing, and so we had to change all of our  
23 screening tools to make sure that we were  
24 documenting what was happening at the port of entry  
25 accurately so that we could accurately communicate

1 that to Asylum seekers who received our services.

2 We had to divert resources to file  
3 complaints.

4 We had to -- oh, there's a lot of issues.  
5 I'm thinking back, too, to like the medically  
6 vulnerable people, for example, who were metered and  
7 all the resources that we had to expend to ensure  
8 that we could coordinate services for them,  
9 especially when people have more serious or urgent  
10 medical needs.

11 When someone was suffering from post  
12 traumatic stress disorder, for example, and still  
13 facing immediate risk of harm in Tijuana, the  
14 resources that had to be expended to ensure that  
15 those people are put with mental health services.

16 There's a host of issues that come up  
17 when trying to address the human impact of metering  
18 and the Turnback Policy on the Asylum seekers that  
19 we serve.

20 Q For the things that Al Otro Lado would be  
21 doing that isn't right now because it's dedicating  
22 these resources in responding to metering?

23 A Yes.

24 MS. WEBSTER: Objection, vague.

25 ///

1 BY MR. HALASKA:

2 Q What are those things?

3 A Well, anytime divert resources from one  
4 program or one part of the organization to another,  
5 there are necessarily things that you cannot do  
6 because you don't have the resources to do them.

7 I can give a specific example, which is  
8 one of the many, of our deportee program. So I had  
9 previously explained in some of my responses that we  
10 had a fairly robust service model that helped  
11 families that were separated by deportation on both  
12 sides of the border, helping, for example, people  
13 who were deported but had a legal right to return to  
14 the United States, et cetera.

15 Really since metering, the deportee  
16 program specifically, I would say only in recent  
17 months have we even come close to what we used to  
18 do. We had a very long period of time where we  
19 simply just didn't have the resources to address the  
20 issues that our deportee clients were facing.

21 We had to divert staffing to deal with  
22 those who were turned back. Again, all the things I  
23 just mentioned, documenting, changing materials,  
24 et cetera, et cetera, like that, takes a lot of  
25 staff resources, which were systematically taken

1 away from the deportee program in particular, as  
2 well as other programs like our medical/legal  
3 program.

4 So with respect to the medical/legal  
5 program, there was the initial delay in setting it  
6 up, there was the loss of funding due to lack of  
7 personnel in Los Angeles. There was later and  
8 continuing to this day a lack of internal resources  
9 to adequately fund raise to cover that work.

10 We receive many, many more referrals than  
11 we're able to handle. Sometimes for people who are  
12 really in terrible situations, like I mentioned,  
13 we're working with victims of extreme child abuse,  
14 including sexual violence and, you know,  
15 unfortunately, because of the massive resource  
16 diversion toward the border, have not always been  
17 able to raise funds necessary to provide services to  
18 those extremely vulnerable clients.

19 There's more examples, but the kind of  
20 general contours are the same. It's just diversion  
21 of resources affects most of our other programs at  
22 the organization and, in turn, affects the people  
23 that we otherwise would be serving.

24 Q In what way did it affect the people that  
25 you'd otherwise be serving?

1           A           Well, like a baby in a coma from being  
2   abused isn't going to get an attorney or a social  
3   worker or, you know, other wraparound services as  
4   quickly as she otherwise would because we don't have  
5   the resources to fully staff or fund the program  
6   that would serve that child.

7                       Similarly, for deportees. If someone is  
8   deported, they're the primary bread winner in their  
9   family, their family in the United States is  
10   suffering due to that deportation, we don't have the  
11   staff or otherwise have the resources to provide the  
12   level or, frankly, any services to some people. We  
13   have to turn away referrals. We have to refer  
14   clients out to other organizations who may or may  
15   not take the case.

16                      So it really does have profound  
17   consequences for the clients that we serve, as well  
18   as our ability to implement -- to implement our  
19   organizational mission with respect to those  
20   clients.

21           Q           You mentioned specifically the example of  
22   a baby in a coma who might not get legal  
23   representation as quickly as she otherwise might; is  
24   that correct?

25           A           Yes.

1           Q       Is that a specific example you're  
2     thinking of or is that a hypothetical?

3           A       That's a specific example I'm thinking  
4     of.

5           Q       Okay. Has Al Otro Lado applied for  
6     grants -- let me start that again.

7                   Has Al Otro Lado applied for and received  
8     grants that it otherwise would not have received but  
9     for its work to address the metering or Turnback  
10    Policy?

11                 MS. WEBSTER: Objection, form. Could you  
12    repeat the question?

13                 MR. HALASKA: Can you read it back?  
14                   (The following question was re-read: "Has  
15     Al Otro Lado applied for grants -- let me  
16     start that again.

17                   "Has Al Otro Lado applied for and  
18     received grants that it otherwise would  
19     not have received but for its work to  
20     address the metering or Turnback  
21     Policy?")

22                 THE WITNESS: It's hard for me to answer  
23    that, because I don't know the intention or the  
24    thoughts of the foundation's individuals or others  
25    providing funding to Al Otro Lado, like what their

1 reasons for them to provide funding to us were.

2 So I don't know that I can answer that.

3 BY MR. HALASKA:

4 Q Have there been any beneficial  
5 consequences of the adaptations or changes that Al  
6 Otro Lado has made to respond to metering or the  
7 Turnback Policy?

8 MS. WEBSTER: Objection, vague.

9 THE WITNESS: Beneficial to whom?

10 MR. HALASKA: To Al Otro Lado.

11 THE WITNESS: I think adaptations benefit  
12 the clients, maybe, but I don't know that I can say  
13 that the organization has benefitted from being  
14 forced to divert resources in the way that we have.

15 MR. HALASKA: Kevin, can you please pull  
16 up -- it's Exhibit 4, 22830.

17 (Reporter clarification.)

18 (Pinheiro Exhibit 6 was marked for  
19 identification.)

20 MR. HALASKA: Can you go -- Kevin, can  
21 you go to the -- where we were before, which I  
22 believe was page 21. Yeah, then scroll down a  
23 little bit more to the last page.

24 BY MR. HALASKA:

25 Q Ms. Pinheiro, I know you testified



1 significant growth in revenue?

2 MS. WEBSTER: Objection, form.

3 THE WITNESS: Yes.

4 MR. HALASKA: Kevin, can you go back to  
5 Exhibit 6, the second amended complaint, same  
6 paragraph, paragraph ten.

7 BY MR. HALASKA:

8 Q Just to quote again, four lines down, "By  
9 refusing to follow the law, Defendants have caused,  
10 and will continue to cause, Class Plaintiffs and Al  
11 Otro Lado concrete and demonstrable injuries and  
12 irreparable harm," end quote.

13 How has Al Otro Lado been irreparably  
14 harmed by defendants' conduct?

15 MS. WEBSTER: Objection. Calls for a  
16 legal conclusion.

17 THE WITNESS: All right. Well, where do  
18 I start? I've explained numerous times about  
19 diversion of resources and all of what that entails,  
20 the specifics of what that entails, how we needed to  
21 divert resources toward the border, and how that had  
22 concrete effects on both our ability to manage the  
23 organization and on our ability to serve extremely  
24 vulnerable clients.

25 We've had actually several meter

1 clients -- I'm sorry, this is a little bit difficult  
2 for me to talk about, but two children who,  
3 unaccompanied children who were turned away and  
4 subsequently murdered in Tijuana. And that  
5 was...that was really, really difficult, really  
6 difficult thing to deal with.

7 And we've had other clients who were  
8 turned away and assaulted, sexually assaulted, some  
9 who disappeared.

10 So you know, there's nothing -- there's  
11 no donation or anything like that that's going to  
12 bring those children back. I don't think that can  
13 be repaired.

14 And I can think to a lot of examples like  
15 that, but that's really the one that -- those two  
16 kids that really stick out in my mind.

17 I can also think of examples of clients  
18 in Los Angeles that really faced some really  
19 terrible outcomes because we weren't able to do what  
20 I think -- you know, what our mission is to do, to  
21 help them.

22 I mentioned the baby in a coma. That's a  
23 real case. There's others like that that are  
24 horrible. I mean, just really the worst -- you  
25 can't even believe another person would do that to

1 another human being. The feeling of powerlessness  
2 of not being able to actually help someone, because  
3 we're -- it's like an emergency room at the border  
4 all the time.

5 It's just like every time, you know, with  
6 metering policy and Turnback Policy changes, we have  
7 to be so on top of it and dealing with all the stuff  
8 that comes up. And it's just like -- diverting of  
9 resources, it has those concrete affects and they  
10 really stay with you as a practitioner and as an  
11 organization when you come into contact with these  
12 clients and you feel a responsibility to help them,  
13 and you can't.

14 Then there's a terrible outcome. I think  
15 that's really, to me, what would be the most  
16 egregious injury as a result metering policy.

17 And just, you know, from an -- this  
18 isn't -- feels trivial to mention this after talking  
19 about the murder and rape and assault of our  
20 clients, but from an administrative perspective,  
21 it's incredibly challenging to manage programming  
22 when constantly having to pull staff to respond to  
23 changes in policy and practice that are never  
24 announced by the government.

25 It's like practicing law in the dark;

1 right? So it's just like the other programs just --  
2 they suffer because of it. We can't build them in  
3 the same way that we otherwise would.

4           You know, we've definitely, just from a  
5 lack of capacity, probably like damaged some funder  
6 relationships or damaged some other coalition  
7 relationships, just from like not being able to  
8 respond sometimes because we're dealing with some  
9 insane, you know, like murder, rape, or something  
10 like that at the border, someone has been metered or  
11 turned back.

12           So, yeah, I'd rather not have to do any  
13 of those things or see no children who have been  
14 murdered brutally, I mean, tortured and murdered,  
15 not even talking like shot in the street. I'm  
16 talking tortured and murdered and not know those  
17 things, or have to have, you know, met and formed a  
18 relationship with these clients.

19           There's no going back from that. There's  
20 no -- like, there's no way to right these wrongs.

21           MR. HALASKA: I think I'm near or at the  
22 end of my questions. Michelle, do you guys think  
23 that you're going to do cross?

24           MS. WEBSTER: I don't suspect so. You  
25 know, we can take a little break if you need a

MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
*mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
25th Floor  
Los Angeles, CA 90071-1503  
Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
*olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
(*pro hac vice*)  
*smedlock@mayerbrown.com*  
1999 K Street, N.W.  
Washington, D.C. 20006  
Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300

SOUTHERN POVERTY LAW CENTER  
Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
*melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
Washington, D.C. 20036  
Telephone: +1.202.355.4471  
Facsimile: +1.404.221.5857

*Additional counsel listed on next page*  
*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Plaintiffs,

v.

Chad F. Wolf,<sup>113</sup> *et al.*,

Defendants.

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 114 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>113</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

CENTER FOR CONSTITUTIONAL RIGHTS

Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

*bazmy@ccrjustice.org*

Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

*gschwarz@ccrjustice.org*

Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

*aguisado@ccrjustice.org*

666 Broadway, 7th Floor

New York, NY 10012

Telephone: +1.212.614.6464

Facsimile: +1.212.614.6499

SOUTHERN POVERTY LAW CENTER

Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

*sarah.rich@splcenter.org*

Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

*rebecca.cassler@splcenter.org*

150 E. Ponce de Leon Ave., Suite 340

Decatur, GA 30030

Telephone: +1.404.521.6700

Facsimile: +1.404.221.5857

AMERICAN IMMIGRATION COUNCIL

Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

*kwalters@immcouncil.org*

1331 G St. NW, Suite 200

Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Play Live Radio



LIVE RADIO

SHOWS



NATIONAL

## A Father And Daughter Who Drowned At The Border Put Attention On Immigration

June 26, 2019 · 12:12 PM ET

BILL CHAPPELL



Rosa Ramirez cries as she looks at photos of her son Óscar Alberto Martínez Ramírez, 25, and granddaughter Valeria, nearly 2, while speaking to journalists at her home in San Martín, El Salvador, on Tuesday. The drowned bodies of her son and granddaughter were found Monday morning on the banks of the Rio Grande.

Antonio Valladares/AP

**Updated at 3:45 p.m. ET**



**Editor's note:** This story contains images that some readers may find disturbing.

The desperate and tragic plight of a father and daughter who drowned while trying to cross the border from Mexico into the U.S. has become a new flashpoint in the border crisis, after a photographer captured a haunting image that shows the pair lying facedown, washed onto the banks of the Rio Grande.

Óscar Alberto Martínez Ramírez, 25, died as he tried to bring his 23-month-old daughter, Angie Valeria, to safety and a new life in the U.S. Ramírez's wife, Tania Vanessa Ávalos, says she watched from the shore as her husband and daughter were pulled away by a strong river current near the border crossing between Matamoros, Mexico, and Brownsville, Texas.

The small family was fleeing poverty in El Salvador and had secured a humanitarian visa in Mexico — but after spending two months in a migrant camp waiting to apply for asylum in the U.S., Martínez decided that they should try to cross the border on Sunday. Those details all come from the Mexican newspaper La Jornada, whose journalist, Julia Le Duc, was at the riverbank as Ávalos spoke to police and emergency workers.

Le Duc also photographed the bodies of Ramírez and his daughter, which were found after Ávalos alerted authorities in Mexico. Le Duc's images show the pair lying along the riverbank, with their feet in the water and their heads on the reeds of dry land. The toddler is tucked into her dad's T-shirt — an apparent attempt to keep her close as the current took them away. Her arm is flung around his neck.



The bodies of Óscar Alberto Martínez Ramírez and his nearly 2-year-old daughter, Valeria, lie on the bank of the Rio Grande in Matamoros, Mexico, where they were found Monday morning. They drowned while trying to cross the river to Brownsville, Texas. This photograph was first published in the Mexican newspaper *La Jornada*.

*Julia Le Duc/AP*

The shocking and unsettling image has drawn comparisons to other powerful photos, of the death of Aylan Kurdi, the 3-year-old Syrian boy who drowned in 2015 as his family tried to reach sanctuary in Greece, and of Omran Daqneesh, who was 5 when he was wounded in an airstrike in Aleppo.

In the same way those images focused the world's attention on the humanitarian crisis in Syria and Turkey, the intense image from the Rio Grande comes as a stark reminder of the human toll of the immigration crisis. As in those earlier cases, it also shows the devastating effect strife and desperation often inflict on children and families.



#### GOATS AND SODA

The Little Boy In Aleppo: Can One Photo End A War?



#### PARALLELS

That Little Syrian Boy: Here's Who He Was

On the same day Óscar Alberto and Valeria died, U.S. Border Patrol agents found four bodies along the Rio Grande in Texas' Rio Grande Valley, about 55 miles west of Brownsville. In that case, three children — one toddler and two infants — died along with a 20-year-old woman.

In reports about the drowning in Matamoros, some of the details have varied. According to *La Jornada*, Ávalos said her husband had taken their daughter across the river and was returning to get his wife when he realized the little girl had not stayed on the bank — she was in the water. Valeria had apparently panicked when she saw her father go back across the river without her.

Ávalos said her husband was able to reach the little girl but wasn't able to make it back to the shore. Their bodies were found Monday morning, about 550 yards from where they tried to cross, *La Jornada* reported.

The New York Times, meanwhile, says the family had entered the river together and that Ávalos swam back to the Mexican side, where she watched the water sweep away her husband and daughter. The newspaper cited Ávalos' comments to government officials.

The family had attempted to cross at a relatively narrow section of the river. But as The Associated Press reports, local officials had recently warned that the river poses a perilous threat, especially because it has been coursing with water that was released from dams to supply irrigation projects.

"We are united to pain by this irreparable loss," the Salvadoran president's office said of the tragedy, after Ramirez's cousin asked for the government's help in bringing the bodies back home.

Salvadoran President Nayib Bukele granted the request, telling Foreign Affairs Minister Alexandra Hill to make arrangements and give the family financial support.

Both the president and Hill also urged Salvadorans not to try to cross the U.S. border without going through legal channels.

"Someday we will finish building a country where these things do not happen," Bukele said. "Someday we will finish building a country where migration is an option and not an obligation. In the meantime, we will do as much as we can. God help us."

In the most recent fiscal year, there were 283 deaths across the U.S. southern border — with nearly 100 of those deaths reported in the Rio Grande Valley, according to the Border Patrol.

Migrants who want to enter the U.S. at legal border crossings often face long waits due to the U.S. Customs and Border Protection policy of "metering," which is meant to manage the flow of migrants by blocking entry if no space is available in CBP's processing facilities.

The U.S. agency says the practice of metering targets health and safety hazards. But in a report on the policy that came out last fall, Homeland Security's inspector general said, "While the stated intentions behind metering may be reasonable, the practice may have unintended consequences."

Citing interviews with Border Patrol officers and supervisors, the inspector general's office said it found "evidence that limiting the volume of asylum-seekers entering at ports of entry leads some aliens who would otherwise seek legal entry into the United States to cross the border illegally."

The Hispanic Caucus of the House of Representatives blamed the Trump administration for the deaths.

"They were driven to cross the river out of desperation — only after they tried to legally seek asylum," the caucus said in a tweet. "They should be safe in the U.S. Instead, they are dead because of Trump's cruel policies."

On Wednesday, Trump blamed current U.S. immigration laws for the deaths. When he was asked how he felt about the photo of the dead father and daughter, the president replied, "I hate it."

"I know it could stop immediately if the Democrats change the law. They have to change the laws," Trump said, adding, "and then that father, who probably was this wonderful guy, with his daughter — things like that wouldn't happen."

Trump predicted that if asylum rules were changed and a wall were built, migrants wouldn't try to cross the river. Speaking to reporters before he boarded Marine One at the White House, he added that conditions at the border prove he was right to say America has an immigration crisis.

"We have a crisis at the border," Trump said.

Under President Trump's "zero tolerance" policy for illegal immigration, the Department of Homeland Security has been criticized for its treatment of families and children, including the now-revised policy of separating minors from their parents.

Over the weekend, the bleak and unsanitary conditions under which more than 350 children were housed in a Border Patrol station in southwest Texas sparked an outcry, prompting the government to move most of those children to other facilities.

rio grande immigration border patrol

## Sign Up For The NPR Daily Newsletter

Catch up on the latest headlines and unique NPR stories, sent every weekday.

What's your email?

**SUBSCRIBE**

By subscribing, you agree to NPR's terms of use and privacy policy.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

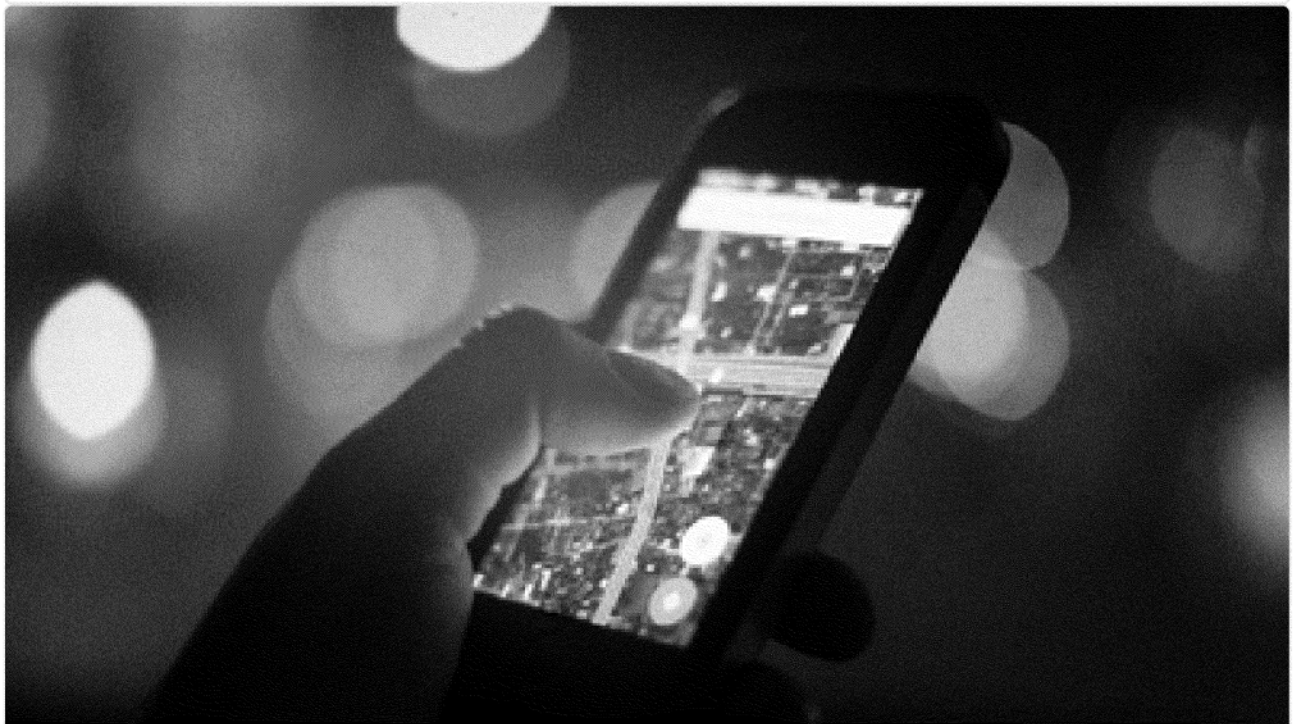


## More Stories From NPR



### BOOK REVIEWS

'Aloha Rodeo' Offers Alternative To The Cowboy Cliché



### NATIONAL

<https://www.npr.org/2019/06/26/736177694/a-father-and-daughter-drowned-at-the-border-put-attention-on-immigration>

7/13

AOL-DEF-00211144

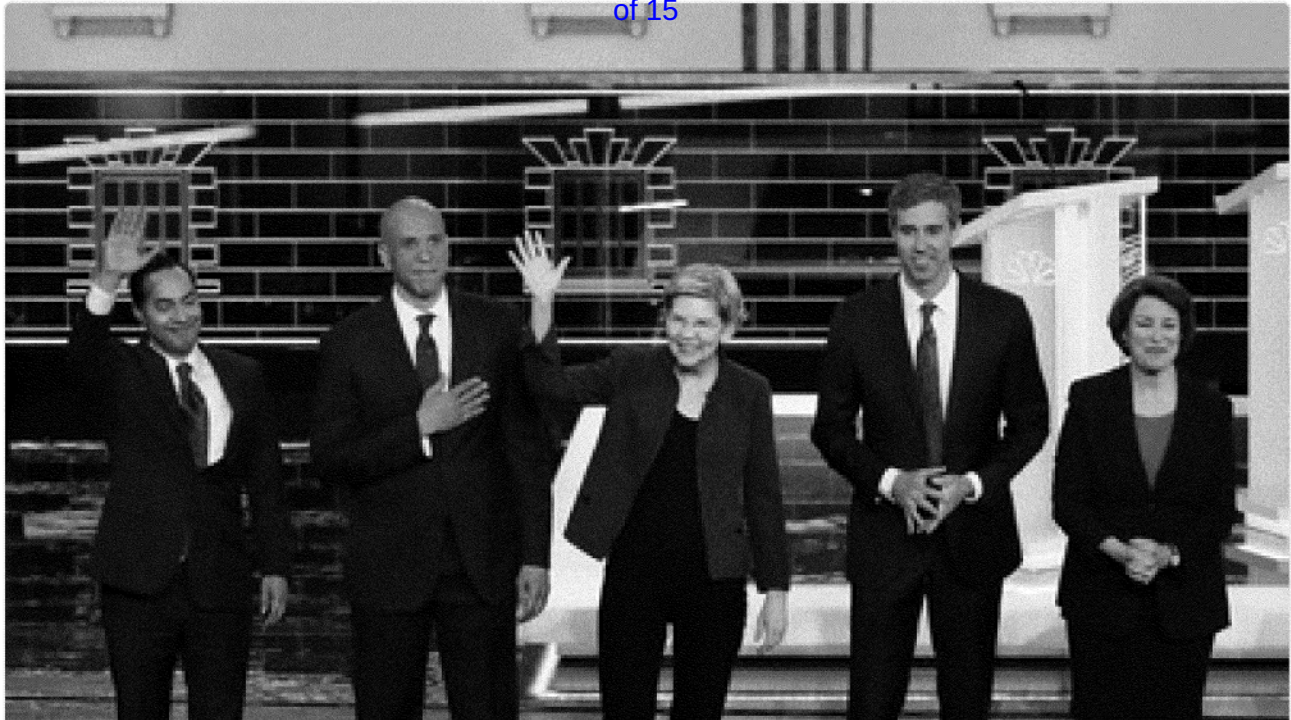
## Popular on NPR.org



LAW

Supreme Court Rules Partisan Gerrymandering Is Beyond The Reach Of Federal Courts





#### ANALYSIS

### 5 Takeaways From The 1st Democratic Debate



#### ELECTIONS

### The First Democratic Primary Debate In 100 Words (And 7 Video Clips)

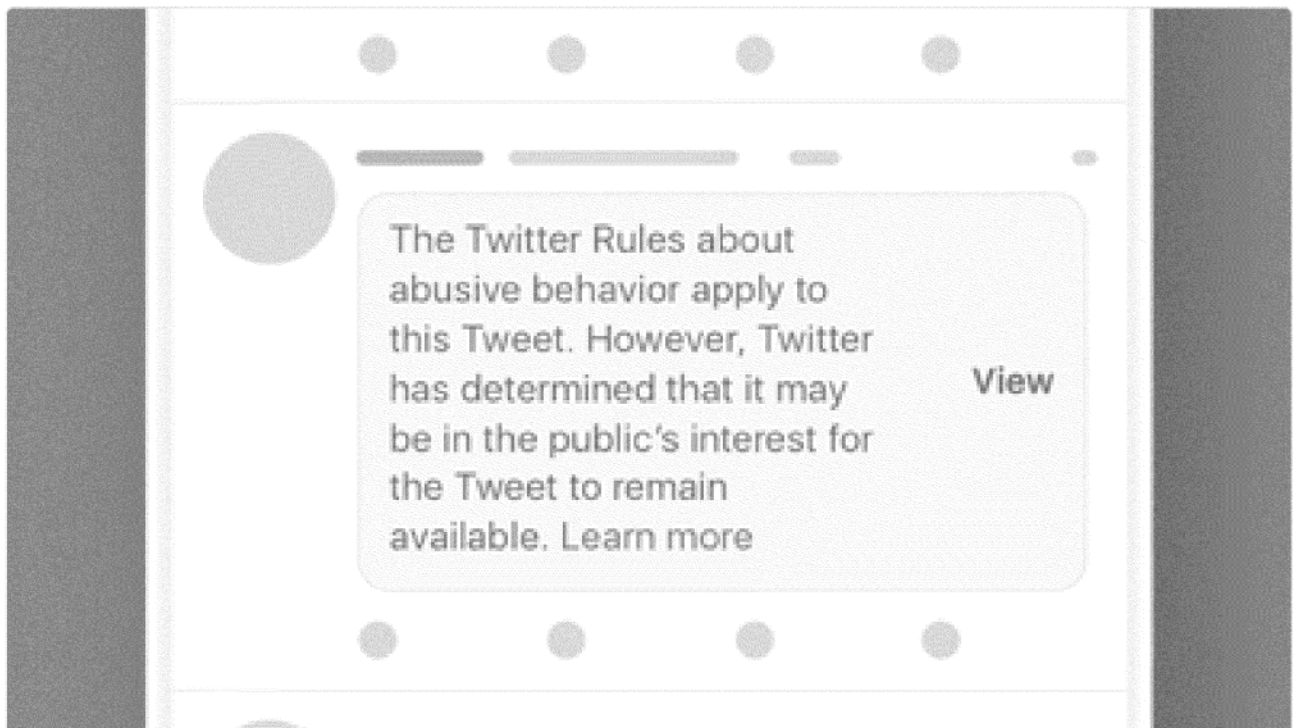




#### LAW

Supreme Court Affirms Police Can Order Blood Drawn From Unconscious DUI Suspects

## NPR Editors' Picks



#### TECHNOLOGY

<https://www.npr.org/2019/06/26/736177694/a-father-and-daughter-drowned-at-the-border-put-attention-on-immigration>

10/13

AOL-DEF-00211147



## Twitter Adds Warning Label For Offensive Political Tweets



### HEALTH

## A New Way To Test For Signs Of Consciousness In Unresponsive, Brain-Injured Patients



### OPINION

## Opinion: Don't Let U.S.-India Trade Differences Escalate Into A Trade War

<https://www.npr.org/2019/06/26/736177694/a-father-and-daughter-drowned-at-the-border-put-attention-on-immigration>

11/13

AOL-DEF-00211148



#### EDUCATION

Democratic Presidential Contenders Propose Free College And Student Loan Forgiveness

#### READ & LISTEN

[Home](#)

[News](#)

[Arts & Life](#)

[Music](#)

[Podcasts](#)

[Programs](#)

#### CONNECT

[Newsletters](#)

[Facebook](#)

[Twitter](#)

[Instagram](#)

[Contact](#)

[Help](#)

#### ABOUT NPR

[Overview](#)

[Finances](#)

[People](#)

[Press](#)

[Public Editor](#)

[Corrections](#)

#### GET INVOLVED

[Support Public Radio](#)

[Sponsor NPR](#)

[NPR Careers](#)

[NPR Shop](#)

[NPR Events](#)

[Visit NPR](#)

<https://www.npr.org/2019/06/26/736177694/a-father-and-daughter-drowned-at-the-border-put-attention-on-immigration>

12/13

AOL-DEF-00211149

---

terms of use

privacy

your privacy choices

text only

© 2019 npr



1 MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
2 *mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
3 25th Floor  
Los Angeles, CA 90071-1503  
4 Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
5 *olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
6 (*pro hac vice*)  
*smedlock@mayerbrown.com*  
7 1999 K Street, N.W.  
Washington, D.C. 20006  
8 Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300  
9

SOUTHERN POVERTY LAW CENTER  
10 Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
11 *melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
12 Washington, D.C. 20036  
Telephone: +1.202.355.4471  
13 Facsimile: +1.404.221.5857

14 *Additional counsel listed on next page*  
15 *Attorneys for Plaintiffs*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 Al Otro Lado, Inc., *et al.*,  
19 Plaintiffs,  
20 v.  
21 Chad F. Wolf,<sup>1</sup> *et al.*,  
22 Defendants.  
23  
24  
25  
26

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 115 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

27 <sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary  
28 McAleenan pursuant to Fed. R. Civ. P. 25(d).

1  
2 CENTER FOR CONSTITUTIONAL RIGHTS

3 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

4 *bazmy@ccrjustice.org*

5 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

6 *gschwarz@ccrjustice.org*

7 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

8 *aguisado@ccrjustice.org*

9 666 Broadway, 7th Floor

10 New York, NY 10012

11 Telephone: +1.212.614.6464

12 Facsimile: +1.212.614.6499

13  
14 SOUTHERN POVERTY LAW CENTER

15 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

16 *sarah.rich@splcenter.org*

17 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

18 *rebecca.cassler@splcenter.org*

19 150 E. Ponce de Leon Ave., Suite 340

20 Decatur, GA 30030

21 Telephone: +1.404.521.6700

22 Facsimile: +1.404.221.5857

23  
24 AMERICAN IMMIGRATION COUNCIL

25 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

26 *kwalters@immcouncil.org*

27 1331 G St. NW, Suite 200

28 Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619



1 MAYER BROWN LLP  
2 Matthew H. Marmolejo (CA Bar No. 242964)  
3 *mmarmolejo@mayerbrown.com*  
4 350 S. Grand Avenue  
5 25<sup>th</sup> Floor  
6 Los Angeles, CA 90071-1503  
7 Ori Lev (DC Bar No. 452565)  
8 *olev@mayerbrown.com*  
9 Stephen M. Medlock (VA Bar No. 78819)  
10 *smedlock@mayerbrown.com*  
11 1999 K Street, N.W.  
12 Washington, D.C. 20006  
13 Telephone: +1.202.263.3000  
14 Facsimile: +1.202.263.3300

15 SOUTHERN POVERTY LAW CENTER  
16 Melissa Crow (DC Bar No. 453487)  
17 *(pro hac vice)*  
18 *melissa.crow@splcenter.org*  
19 1101 17th Street, N.W., Suite 705  
20 Washington, D.C. 20036  
21 Telephone: +1.202.355.4471  
22 Facsimile: +1.404.221.5857

23 *Additional counsel listed on next page*  
24 *Attorneys for Plaintiffs*

25 **UNITED STATES DISTRICT COURT**  
26 **SOUTHERN DISTRICT OF CALIFORNIA**

27 Al Otro Lado, Inc., *et al.*,

28 Plaintiffs,

v.

Chad F. Wolf,<sup>1</sup> *et al.*,

Defendants.

Case No.: 17-cv-02366-BAS-KSC

**PLAINTIFFS' CONSOLIDATED  
ANSWERS AND OBJECTIONS TO  
DEFENDANTS' FIRST SETS OF  
INTERROGATORIES TO ALL  
NAMED PLAINTIFFS**

<sup>1</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).

1 CENTER FOR CONSTITUTIONAL RIGHTS

2 Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

3 *bazmy@ccrjustice.org*

4 Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

5 *gschwarz@ccrjustice.org*

6 Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

7 *aguisado@ccrjustice.org*

8 666 Broadway, 7th Floor

9 New York, NY 10012

10 Telephone: +1.212.614.6464

11 Facsimile: +1.212.614.6499

12 SOUTHERN POVERTY LAW CENTER

13 Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

14 *sarah.rich@splcenter.org*

15 Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

16 *rebecca.cassler@splcenter.org*

17 150 E. Ponce de Leon Ave., Suite 340

18 Decatur, GA 30030

19 Telephone: +1.404.521.6700

20 Facsimile: +1.404.221.5857

21 AMERICAN IMMIGRATION COUNCIL

22 Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

23 *kwalters@immcouncil.org*

24 1331 G St. NW, Suite 200

25 Washington, D.C. 20005

26 Telephone: +1.202.507.7523

27 Facsimile: +1.202.742.5619

28

1 AOL-DEF-00047772-73. Commissioner McAleenan's response to this information  
2 was that supposed capacity constraints at port of entry was, at most, "[r]eally just a  
3 San Ysidro challenge." *Id.* at 773.

4 ***The Systematic Effect of Defendants' Conduct.*** While the Government lied,  
5 migrants died. On June 23, 2019, Óscar Alberto Martínez Ramírez, a native of El  
6 Salvador, and his 23-month-old daughter, Valeria, attempted to enter the United  
7 States at the Brownsville, Texas port of entry and were turned back by CBP Officers.  
8 AOL-DEF-00211139; *see also* Reis Thebault, Luis Velarde, and Abigail  
9 Hauslohner, *The Father and Daughter Who Drowned at the Border Were Desperate*  
10 *for a Better Life, Family Says*, Washington Post (June 26, 2019). But, on that day,  
11 the Brownsville Port of Entry was operating at only 33% capacity. AOL-DEF-  
12 00035288. Oscar was desperate to enter the United States. *See* Reis Thebault, Luis  
13 Velarde, and Abigail Hauslohner, *The Father and Daughter Who Drowned at the*  
14 *Border Were Desperate for a Better Life, Family Says*, Washington Post (June 26,  
15 2019). He had sold his motorcycle, borrowed money from family, and travelled over  
16 1,000 miles with his daughter from El Salvador to Matamoros, Mexico. *Id.* Now  
17 aid workers in Matamoros were advising him that there were hundreds of people in  
18 front of him and his daughter in line waiting for their number to be called. *Id.* So,  
19 Oscar and his daughter waded into the Rio Grande river near the Brownsville port  
20 of entry. *Id.* However, the rapid current of the river pulled them under, drowning  
21 both of them. AOL-DEF-00211139. Their bodies washed up along the  
22 riverbank. *Id.* Their feet were in the water; their heads were face-down nestled in  
23 brown reeds. *Id.* Valeria's hand was wrapped around her father's shoulders. *Id.*



Pls.' Dep. Ex. 51.

Executive Assistant Commissioner Todd Owen made it clear that CBP takes no responsibility for the deaths of Oscar and Valeria or any other harm caused by the Turnback Policy. As Mr. Owen testified at his deposition:

Q. Do you take any responsibility for what's happened . . . to migrants who are living on the Mexican side of the border due to the metering policy?

A. Do I take --?

Q. Yeah. Do you take any responsibility for that?

A. No.

Owen Dep. at 289:21-290:6. Mr. Owen then specified that he takes no responsibility for children that were forced to sleep outside on the streets of Matamoros in the



1 summer heat after they were turned back at ports of entry. *Id.* at 291:6-14. He went  
2 on to testify:

3 Q. Do you take any responsibility for what occurs to asylum seekers  
4 who, when f[aced] with waiting . . . for months in Mexico due to  
5 metering decide to cross illegally between ports and are harmed?  
6 Do you take any responsibility for that?

7 A. No.

8 *Id.* at 291:15-20. Then, when Mr. Owen realized that he was going to be shown a  
9 picture taken of Oscar and Valeria, he became angry, saying “[G]o ahead. Show me  
10 the pictures from the river.” *Id.* at 292:1. When asked whether he took any  
11 responsibility for the deaths of Oscar and Valeria, Mr. Owen provided a callous,  
12 one-word answer: “No.” *Id.* at 292:8-21.

13 It should have been no surprise to Mr. Owen that the Turnback Policy was  
14 forcing migrants into dangerous situations. He was told as early as September 2016  
15 that Mexican officials believed that a [REDACTED] was unfolding at the  
16 border as a result of the Turnback Policy. *See* AOL-DEF-00762746. At his  
17 deposition, Mr. Owen denied that he was told about the [REDACTED] caused  
18 by metering. Owen Dep. at 73:16-20 (“Q. Were you told that the metering policy  
19 created a [REDACTED]? A. [REDACTED]? Q. Yeah. A. No.”).  
20 When Mr. Owen was confronted with an email showing that he had, in fact, been  
21 told that metering was causing a [REDACTED] the only answer he could  
22 muster was “I received this e-mail in 2016, so, yes, I would have read that.” *Id.* at  
23 126:18-22.

24 Although not always ending in death, what happened to Oscar and Valeria at  
25 the Brownsville port of entry has played out in thousands of interactions at Class A  
26 ports of entry along the U.S.-Mexico border. Defendants have made clear that the  
27 policy applies to all ports of entry on the U.S.-Mexico border, meaning that any  
28 asylum seeker who approaches a POE can be turned back. As former Executive

MAYER BROWN LLP  
Matthew H. Marmolejo (CA Bar No. 242964)  
*mmarmolejo@mayerbrown.com*  
350 S. Grand Avenue  
25th Floor  
Los Angeles, CA 90071-1503  
Ori Lev (DC Bar No. 452565)  
(*pro hac vice*)  
*olev@mayerbrown.com*  
Stephen M. Medlock (VA Bar No. 78819)  
(*pro hac vice*)  
*smedlock@mayerbrown.com*  
1999 K Street, N.W.  
Washington, D.C. 20006  
Telephone: +1.202.263.3000  
Facsimile: +1.202.263.3300

SOUTHERN POVERTY LAW CENTER  
Melissa Crow (DC Bar No. 453487)  
(*pro hac vice*)  
*melissa.crow@splcenter.org*  
1101 17th Street, N.W., Suite 705  
Washington, D.C. 20036  
Telephone: +1.202.355.4471  
Facsimile: +1.404.221.5857

*Additional counsel listed on next page*  
*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

Al Otro Lado, Inc., *et al.*,

Plaintiffs,

v.

Chad F. Wolf,<sup>115</sup> *et al.*,

Defendants.

Case No.: 17-cv-02366-BAS-KSC

**EXHIBIT 116 IN SUPPORT OF  
PLAINTIFFS' MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEIR MOTION  
FOR SUMMARY JUDGMENT**

<sup>115</sup> Acting Secretary Wolf is automatically substituted for former Acting Secretary McAleenan pursuant to Fed. R. Civ. P. 25(d).



CENTER FOR CONSTITUTIONAL RIGHTS

Baher Azmy (NY Bar No. 2860740) (*pro hac vice*)

*bazmy@ccrjustice.org*

Ghita Schwarz (NY Bar No. 3030087) (*pro hac vice*)

*gschwarz@ccrjustice.org*

Angelo Guisado (NY Bar No. 5182688) (*pro hac vice*)

*aguisado@ccrjustice.org*

666 Broadway, 7th Floor

New York, NY 10012

Telephone: +1.212.614.6464

Facsimile: +1.212.614.6499

SOUTHERN POVERTY LAW CENTER

Sarah Rich (GA Bar No. 281985) (*pro hac vice*)

*sarah.rich@splcenter.org*

Rebecca Cassler (MN Bar No. 0398309) (*pro hac vice*)

*rebecca.cassler@splcenter.org*

150 E. Ponce de Leon Ave., Suite 340

Decatur, GA 30030

Telephone: +1.404.521.6700

Facsimile: +1.404.221.5857

AMERICAN IMMIGRATION COUNCIL

Karolina Walters (DC Bar No. 1049113) (*pro hac vice*)

*kwalters@immcouncil.org*

1331 G St. NW, Suite 200

Washington, D.C. 20005

Telephone: +1.202.507.7523

Facsimile: +1.202.742.5619

Case 3:17-cv-02366-BAS-KSC Document 535-118 Filed 09/04/20 PageID.49058 Page 3 of 3



2-SER-503